

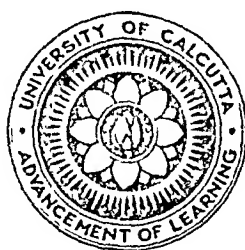


# HISTORY OF INDIAN LABOUR LEGISLATION

BY

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To  
THE MEMORY OF  
SIR ASUTOSH MOOKERJEE





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## PREFACE

Indian labour legislation, which formed the subject-matter of the author's Special Readership Lectures at the University of Calcutta in January, 1937, was divided into two parts, namely, (1) historical development, and (2) principles and problems. The second part has already been published under the title of *Principles and Problems of Indian Labour Legislation*, and the first part is presented herewith under the title of *History of Indian Labour Legislation*. Since 1937, a number of amending and new measures have been passed and several bills and proposals are also under consideration by both the Central and Provincial Legislatures and the present treatise has been brought up to date.

With the publication of this volume, the author brings into completion the two important series of studies in Indian labour, namely, (1) labour legislation, and (2) labour condition, which he undertook in 1912 and on which he published a number of treatises during the past two decades. The first series consists of the following : (1) *Factory Legislation in India*<sup>1</sup> (doctoral dissertation to the University of Wisconsin in 1916 and finally published in 1923); (2) "Labour Legislation in India" (*International*

<sup>1</sup> A resumé of this treatise was published in *Modern Review* in 1921.

*Labour Review*, 1930); (3) "The Rise of Labour Legislation in India" (*Asiatic Review*, 1936); (4) "Labour Legislation in Indian States" (*International Labour Review*, 1938); and (5) *Principles and Problems of Indian Labour Legislation* (University of Calcutta, 1938). The second series consists of the following: (1) "Rise of Factory Labour in India" (published by the U. S. Bureau of Labour Statistics in its organ *Monthly Labour Review*, 1922), (2) *Factory Labour in India* (1923); (3) *Plantation Labour in India* (1931), (4) "Woman Labour in India" (*International Labour Review*, October and November, 1931) (5) "Child Labour in India" *Labour International Review*, December, 1933 and January, 1934), and (6) *Industrial Labour in India* (Author's report published by the International Labour Office, 1938)

*History of Indian Labour Legislation* is a study in the origin and development of legislative measures relating to labour, mostly in organised industry, in both British Provinces and Indian States. The present treatise differs from the one factory legislation in both subject-matter and methodology inasmuch as the latter tried to analyse social, political, and economic forces leading to the rise of legislation in relation to labour in factories, while the former deals with the development of legislation relating to labour in organised industry in general. While giving an objective and comprehensive, though brief and concise, description of different

measures, and tracing each series of measures in its historical development and confining himself mostly to relevant facts, the author has made efforts to deal with various measures as component parts of an organic whole and to show them to constitute a most important social institution in modern India.

The part on labour legislation in Indian States was originally based on the report of an Inquiry, which, at the initiative of the Author, the Government of India undertook on behalf of the International Labour Office in 1928-29. This original material has subsequently been supplemented by the documents of different States. Although labour legislation in Indian States, which are semi-independent bodies, is still outside the jurisdiction of the British Indian Legislature, the treatment of the subject in the present study has become necessary not only for a fuller comprehension of the legislative problems of British India, but also for the fact that most of the important States, such as Hyderabad, Mysore, Baroda, Indore, Travancore and Cochin, have developed elaborate systems of labour legislation on the lines of that in British India. Moreover, after the establishment of the Federal Government under the Government of India Act of 1935, the labour legislation in Indian States will become an integral part of the legislation for the whole of India.

While completing these two important series of studies, to which he has devoted a great i of



his time during the past quarter of a century, the Author would like to take this opportunity to express his gratitude to all those organisations and institutions which have given him facilities for the accomplishment of his task : First, the Bureau of Labour Statistics, Department of Labour, United States Government, which subsidised his studies in factory legislation and factory labour in India, and which also appointed him their Special Agent for the investigation of the social and economic conditions of Hindustani workers on the Pacific Coast in 1921-22 ; secondly, the International Labour Office, which appointed him Research Economist for the study of Indian Labour for 15 years (1925-40) and sent him on missions to India in order to collect material on factory law administration and social welfare work in different industrial centres for his report on *Industrial Labour in India*, and finally, the University of Calcutta, which invited him to deliver the Special Readership Lectures in 1937 and which has already published one part of these lectures and has undertaken the publication of the other. Moreover, he would also like to thank several mill-owners and factory managers in Bombay, Ahmedabad, Calcutta, Cawnpore, Nagpur, Jamsh-edpur, Alwar, Buxa and Bampur, who kindly gave him all the facilities in 1925, 1931, 1933, and 1937 to study actual factory practices and factory conditions, as well as the factory inspectors and chief inspectors of most of these towns, whose

kind collaboration made it possible for him to visit most of the important factories and welfare centres.

The Author would also like to point out the difficulty of writing a treatise on a living institution, which is constantly in the process of growth. The present treatise was completed early in 1938, but could not be rapidly pushed through the press owing to war conditions; and a number of labour measures has since then been introduced in, or passed by, the Legislatures, both central and provincial. It has therefore been necessary to summarise them as the latest labour measures in the form of an Appendix to each part of the book.

In conclusion, he wishes to acknowledge his indebtedness to his wife, Dr. Sonya Ruth Das, and also to Professor Amiya Kumar Sen, M.A., of the University of Calcutta, for kindly reading parts of the manuscript and offering valuable suggestions.

CALCUTTA,  
*November, 1940.* }

RAJANI KANTA DAS



## INTRODUCTION

Labour legislation is one of the most important institutions of modern society. The origin and growth of labour legislation may be ascribed to several social forces ; especially the development of organised industry, where considerable numbers of men, women and even children are employed under conditions which are often detrimental to their health, safety and welfare and from which they are often unable to protect themselves. It has thus become a duty of the State to enact legislative measures in order to control the working, and in some cases even the living, conditions of workers and to mediate or arbitrate in their relations with employers, whenever necessary.

India is still an essentially agricultural country, but modern industrialism has made considerable progress within the past two generations. The key to the development of organised industry is the transport system, especially railways, which increased in total route mileage from 4,771 in 1870 to 43,118 in 1935-36.<sup>1</sup> A still more important

<sup>1</sup> It relates to the figure on 31st March, 1936. Of the total mileage, 31,783 miles or 74 per cent. were State-owned and 19,133 miles under the direct management of the State. *Report by the Railway Board, Indian Railways, 1935-36, Vol. II, p. 9.*

feature of modern industrialism is the rise of joint-stock companies. The paid-up capital of the joint-stock companies registered in British India increased from Rs. 29 crores in 1895-96 to Rs. 289 crores in 1935-36 and that of the companies registered outside but at work in British India, increased from £72 million in 1911 to £573 million in 1935-36.<sup>1</sup> Moreover, the total number of undertakings employing 10 persons or more amounted to 15,406 in 1921,<sup>2</sup> and although no census of industries was taken in 1931, it may be safely assumed that they have increased considerably.

What is more significant is the fact that there are great possibilities for further industrialisation as indicated by the existence of power resources, raw material, cheap labour and potential domestic market for manufactured goods as well as by the rise of indigenous enterprise and capital which have been taking an increasingly active part in the commercial and industrial development of the country. Moreover, the constant growth of population and the consequent increasing pressure upon the land, and the inability of the handicrafts to compete with the highly industrialised countries even in their own market, have made the develop-

<sup>1</sup> *Statistical Abstract for India 1937* Vol. I p. 57. *Statistical Abstract for British India 1937* Table No. 22. 1911 Table No. 13 and 1921

<sup>2</sup> *Census of India 1921* Vol. I Part I pp. 252-3

ment of organised industry an imperative necessity for India.

The growth of organised industry has already opened up a new and great field of employment to Indian population. According to the census of 1921, the total number of workers in undertakings employing 10 persons or more was 2,681,125 including 686,811 or 26 per cent. women, and 255,172 or 8·4 per cent. children under the age of 15 years.<sup>1</sup> In 1931, no general return was obtained from industrial undertakings employing workers, but both the census of 1931 and the Indian Franchise Committee of 1932 have estimated the total number of workers in organised industry to be about 5 million.<sup>2</sup> Assuming that the numbers of women and children employed in organised industry increased in the same proportion as the total number of workers, these numbers in 1931 would be 1·3 million and 420,000 respectively. Moreover, a large proportion of the wage-workers, the number of whom amount to 56 million consisting of 31 million agricultural labourers and 25 million non-agricultural labourers as well as of peasants and artisans are bound sooner or later to join the rank and file of industrial labour.

The employment of so large a population in

<sup>1</sup> *Census of India*, 1921, Vol. I, Part I, pp. 266 and 292-93.

<sup>2</sup> *Census of India*, 1931, Vol. I, Part I, p. 285; *Report of the Indian Franchise Committee*, 1932, pp. 91-92.

organised industries, especially of women and children, has naturally been followed by labour legislation. The origin of labour legislation in India may, however, be traced back to two distinct sources, namely (1) the recruitment of labour under penal sanction for employment within the country, such as the Bengal Regulation XI of 1806, as amended by Regulation III of 1820, legalising forced labour, and the Bengal Regulation VII of 1819 making breach of contract a criminal offence; and (2) the recruitment of labour under the indenture system by the Indian Emigrant Act of 1837 for employment in the British Colonies, which had turned to India as sources of cheap labour supply after the abolition of slavery by the Slavery Abolition Act of 1834. Although the Bengal Regulation VII of 1819 was abolished in 1862 and the Act of 1837 was amended and re-enacted by successive Acts and was replaced by the Indian Emigration Act VII of 1922, abolishing the indenture system, both of them had great effect upon the development of labour legislation, especially in connection with the recruitment and employment of tea garden labourers in Assam. The regulation of labour under the indenture system or penal sanction formed, however, only a passing phase in the development of Indian labour legislation. The origin of labour legislation may be traced to 1881, when the first Factories Act was passed to regulate labour under

civil contract and the foundation was laid of modern labour legislation in India.

Indian labour legislation has, from the very beginning, developed in connection with the welfare of workers in some specific industry and has in recent years extended its scope to include the welfare of workers in organised industry in general. Legislative measures concerning labour may thus be roughly classified under two categories, namely, (1) the specific, and (2) the general. Although all labour measures, whether specific or general, aim at the welfare of workers, there is a fundamental difference in the method of approach, the former starting from the actual condition in some specific industries, and the latter dealing with some particular aspect or interest of the working classes in general.

Specific legislation relates to labour conditions in such industries as plantations, factories, mines and transport. Beginning with the early sixties, these specific legislative measures have grown independently and according to the special needs of the industry concerned, and each has become an independent institution and although, in recent years, there has grown a tendency towards uniformity in some of these provisions, *e. g.*, minimum age and hours of work, there will always remain differences in labour conditions in these industries and will need separate legislation. Most of these legislative measures have been



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enacted by the Government of India, but some of them have also been passed by Local Governments and they form the first part of this treatise.

Besides the above legislation for the regulation of labour conditions in specific industries, there has also grown up in recent years another series of legislative measures which are generally applicable to all workers alike, irrespective of the industry in which they are employed. As in the case of specific legislation, most of these measures have been undertaken by the Government of India, but a few are under the jurisdiction of Local Governments. They relate to abolition of servitude, social welfare, protection of wages, social insurance, trade unions and industrial disputes, and are dealt with in the second part of this treatise.

As in the case of British India, modern industrialism has also made some progress in Indian States, which roughly form about 45 per cent. of the territory and about 24 per cent. of the population of the whole country. The total number of these States amounts to 562, but they vary considerably in size from the petty State of Lawa in Rajputana with 19 square miles, to the large State of Jamnā and Kāśī with 84,516 square miles.

Hyderabad,  
Mysore,  
Cochin.

European States in area and population.<sup>1</sup> The extent of industrialism in these States is indicated by the fact that the paid-up capital of the joint-stock companies between 1911-12 and 1935-36 increased from Rs. 0·34 crore to Rs. 13·17 crores in the case of those registered in Indian States, and from £5·80 million to £13·36 million in the case of those registered abroad but at work in the States.<sup>2</sup>

With the development of modern industrialism and industrial labour, there has also grown labour legislation in Indian States. Most of the labour measures of these States are based upon those of British India and have developed along similar lines. As in the case of British India, the legislative measures of Indian States may be divided into two categories: (1) specific labour legislation, and (2) general labour legislation, which are described in the third part of this treatise.

<sup>1</sup> The area in square miles and the population in millions, in brackets, of the larger States are given below: Hyderabad 82,698 (14·43); Kashmir (including Jammu), 84,516 (3·64); Mysore 29,326 (6·55); Gwalior 26,367 (3·52); Indore 9,518 (1·31); Baroda 8,164 (2·44); Travancore 7,625 (5·09); Cochin 1,480 (1·20).

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European States in area and population.<sup>1</sup> The extent of industrialism in these States is indicated by the fact that the paid-up capital of the joint-stock companies between 1911-12 and 1935-36 increased from Rs. 0·34 crore to Rs. 13·17 crores in the case of those registered in Indian States, and from £5·80 million to £13·36 million in the case of those registered abroad but at work in the States.<sup>2</sup>

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# PART I

## SPECIFIC LABOUR LEGISLATION



## CHAPTER I

### PLANTATION LEGISLATION <sup>1</sup>

Plantations were the first organised industries in India, in respect of which Government took legislative measures. The direct object of such measures was the regulation of recruitment and forwarding of labour from the sources of supply to the places of work rather than of actual employment ; moreover, they made labour engagement a penal contract rather than a civil contract, which underlies modern legislation. In spite of these differences, these measures provided for the regulation not only of engagement and transport, but also of employment of labour with special reference to sanitary conditions, hours of work, and wage systems, thus affecting both the working and living conditions of the workers. The penal sanction has been abolished, but some of its regulations still exist and form, for all practical purposes, an important series of plantation legislation.

Since the middle of the last century, planting industries, especially those in connection with tea, coffee, or rubber, have developed, though with varying degrees of success, in different parts of the country, as indicated by the increase in the

<sup>1</sup> Cf. Author's *Plantation Labour in India*, Calcutta, 1931, Chap. III.

paid-up capital from Rs. 3·67 crores in 1895-96 to Rs. 15·39 crores in 1935-36 in the case of the joint-stock companies registered in British India, and from £16·87 million in 1911 to £29·37 million in 1935-36 in case of the joint-stock companies registered abroad but at work in British India.<sup>1</sup> The area under cultivation increased from 116,411 acres in 1919-20 to 190,030 acres in 1936-37 in the case of coffee, from 118,536 acres in 1919 to 228,168 acres in 1936 in the case of rubber, and from 528,000 acres in 1905 to 834,300 acres in 1936 in the case of tea. Moreover, the production and export of tea, which is the most important plantation crop, increased from 221 million and 217 million pounds in 1905 to 395 million and 303 million pounds respectively in 1936.<sup>2</sup>

The number of labourers employed by these plantations is also considerable, being the second largest in the organised industry. In 1936, for instance, these industries employed a daily average of 1,020,523 workers, comprising 873,544 on tea estates, 101,837 on coffee estates,<sup>3</sup> and 45,142 on

<sup>1</sup> *Statistics of British India, 1922, Vol. I, p. 109; Statistical Abstract for British India, 1938, Tables Nos. 170 and 180.*

<sup>2</sup> Compiled from *Indian Tea Statistics, Indian Rubber Statistics, Indian Coffee Statistics*, for the respective years. The figure for the export refers to the year 1936-37.

<sup>3</sup> The figure for coffee refers to 1936-37. Although these figures do not refer exactly to the same dates, they together nevertheless give some approximate idea of the actual number of workers in important plantation industries.

rubber estates in all India.<sup>1</sup> The total number of workers employed in British India was, however, 865,402 or over four-fifths of the total, comprising 791,722 workers or nine-tenths of the total on the tea estates, 51,145 or over one-half on the coffee estates, and 22,535 or about one-half on rubber estates. In view of the fact that a large number are absent every day for some reason or other, the actual number of workers employed on these plantations would be much larger than that represented by their average daily numbers.

Practically all the coffee and rubber plantations are located in the South,<sup>2</sup> but most of the tea gardens are to be found in the North, especially in Assam and Bengal, which employed respectively over one-half and one-fifth of the tea garden labourers in 1936. The plantations in the South are located in comparatively densely populated provinces, and draw their labour supplies from the neighbouring districts, but those in the North, especially in Assam,<sup>3</sup> are situated in sparsely populated regions and often in uninhabited hillsides, and depend largely upon imported labour, for the

<sup>1</sup> The figure for coffee refers to the year 1936-37. Cf. *Indian Rubber Statistics*, 1936; *Indian Coffee Statistics*, 1936-37; *Indian Tea Statistics*, 1936.

<sup>2</sup> A considerable number of rubber plantations are located in Burma, which has been separated from India proper since 1 April, 1937.

<sup>3</sup> In 1936, Assam tea gardens employed 505,837 labourers, about 58 per cent. of all tea garden labourers and over 50 per cent. of all plantation labourers.

recruitment of which Government control has become necessary.

The regulation of labour recruitment for Assam tea gardens gave rise to the indenture system; legislation for the employment of labour on plantation in Madras and Coorg also provided penal sanction, and some of the labourers on these plantations were employed even under penal contract provided by the other measures. All classes of penal contract or labour under penal sanction came to an end in 1931. Although some control of the recruitment and forwarding of labour for Assam tea gardens is still necessary and has been retained under the present Act, the penal contract has been replaced by civil agreement.

### 1. TRANSPORT OF NATIVE LABOURERS ACT, 1863

Assam tea gardens are among the earliest plantation industries. Although experiments were made early in the nineteenth century, real progress in tea cultivation began about 1851, and by 1859 the number of tea gardens in different parts of the country amounted to 51, most of which were located in Assam.<sup>1</sup> The paucity of population in Assam and the location of tea gardens in isolated districts made it necessary to import labourers from outside, especially from Bengal, and a class of

<sup>1</sup> *Imperial Gazetteer of India*, 1908 Vol III pp 36-37

recruiters therefore grew up for the supply of to Assam tea gardens.

The unregulated recruitment of labour by speculating contractors, gave rise to many abuses. In order to enquire into the matter, the Government of Bengal appointed a committee in 1861 and, on the basis of its recommendation, passed in 1863, the Transport of Native Labourers Act (No. III) “to regulate the passage and transport of native labourers from and through the provinces subject to the Government of Bengal to the districts of Assam, Cachar and Sylhet, and also to regulate the manner of engaging and contracting with the native inhabitants of the said provinces to proceed to the said districts for the purposes of labouring for hire.”<sup>1</sup> The Act required recruiters to be licensed, emigrants to be registered, sanitation to be provided on the way to labour districts, and the period of labour contract to be restricted to five years.

Many abuses of recruitment were still left unmitigated and in order to control them the Act of 1863 was amended in 1865 “to provide for the due protection of native labourers who had been or should hereafter be conveyed at the expenses of the employers under the provisions of the Act of 1863 or of any other law to the districts other than the districts to which they

<sup>1</sup> Act No. III of 1863; passed by the Lieutenant-Governor of Bengal in Council and assented to by His Honour and the Governor-General on 10th and 28th March, 1863, respectively.



belonged; and for the due enforcement of the contract entered into by such labourers with the persons whom they should have engaged to serve for hire." By this amendment, the maximum period of contract was reduced to 3 years, the scale of wages fixed, provisions made for the appointment of protector, contracts made voidable in the case of unhealthy gardens, and desertion and indolence on the part of labourers under contract made punishable by law; moreover, planters were empowered to arrest absconders without warrant within the limits of the district in which they were employed.<sup>1</sup>

The Amending Act of 1865, however, neither solved the problem of labour supply nor secured adequate protection to labourers. Scarcity of labour and abuses of recruitment still continued; moreover, there was a heavy mortality among the recruits. An enquiry into the matter was made in 1869 and, on the basis of its report, the Government of Bengal passed the Act (No. II) of 1870 "to consolidate and amend the law regulating the transport of native inhabitants of India from and through the provinces subject to the Government of Bengal to the districts of Assam, Cachar and Sylhet and the manner of engaging and contracting with the native inhabitants of the said provinces to

<sup>1</sup> Act No. VI of 1865; passed by the Lieutenant Governor of Bengal in Council and assented to by His Honour and the Governor-General on 11th and 15th April, 1865, respectively.

proceed to the said districts, and providing for the protection of persons so proceeding and for the enforcement of the contract of service entered into by them.”<sup>1</sup> The Act also provided for the cancellation of the contract after the deserter has suffered imprisonment amounting to 6 months and for the legal recognition of garden *sardars* as recruiters.

## 2. LABOUR DISTRICTS EMIGRATION ACT, 1873

Some of the evil effects of penal contract became gradually evident. With a view to providing for free recruitment of labour subject only to civil contract and for the better condition of health, the Government of Bengal passed an Act (No. VII) “to amend the law relating to emigration of labourers to the districts of Assam, Cachar and Sylhet and to regulate contract labour and service” in 1873. By this Act the Bengal Act (No. II) of 1870 was repealed; and “all contracts entered into, appointments made and licenses granted under the said or any other Act thereby repealed, were deemed to have been respectably entered into, made and granted under this Act.”<sup>2</sup> Provisions were also

<sup>1</sup> Act No. II of 1870; passed by the Lieutenant-Governor of Bengal in Council and assented to by His Honour and the Governor-General on 9th September, 1869 and 16th March, 1870, respectively.

<sup>2</sup> Act No. VII of 1873; passed by the Lieutenant-Governor of Bengal in Council and assented to by His Honour and the Governor-General on 22nd and 30th December, 1873, respectively.

made under Chapter 13 of the Act for declaring localities "unhealthy" or unfit for residence of labourers if mortality in the year or on an average of three years exceeded 7 per cent.

The excessive mortality in some of the tea gardens led to the enactment of Regulation (No. IV), or Assam Emigration Regulation, of 1877, by which the Chief Commissioner of Assam was authorised to apply, by notification in the Assam Gazette, Chapter 13 of the Act of 1873, relating to the power of the Local Government to declare any garden unhealthy or unfit for residence of labourers under certain conditions.<sup>1</sup>

As the tea gardens began to extend to other districts and the need was felt for the extension of the law to those districts, the Bengal Act (No. VII) of 1873 was amended by Act (No. II) of 1878 to extend the provisions of the Labour Districts Emigration Act to the districts of Chittagong and to the Chittagong Hill Tracts.<sup>2</sup>

### 3. ASSAM LABOUR AND EMIGRATION ACT, 1892<sup>3</sup>

These amendments failed to remedy the defects and to provide an adequate supply of labour, and

<sup>1</sup> *Gazette of India*, 15th December, 1877, p. 725

<sup>2</sup> Act No. II of 1878 : passed by the Lieutenant Governor of Bengal in Council and assented to by His Honour and the Governor General on 5th and 25th February, 1878, respectively.

<sup>3</sup> This Act was at first passed as the *Inland Emigration Act of 1892*, but by the Amendment of 1893 the title was changed to the present one.

moreover, it was gradually realised that, in order to cover emigration from other provinces than that from Bengal alone, the Act should be enacted by the Government of India. A new Commission of Enquiry was appointed in 1881. The findings of the Commission were as follows: (1) lack of encouragement to free emigration of labour; (2) unnecessary restriction upon the recruitment by garden *sardars*; (3) absence of any provision for the enforcement of contracts outside the Act; and (4) insufficient protection against the absence, idleness and desertion by labourers.

To give effect to some of these conditions, the Government of India passed the Inland Emigration Act (No. 1) of 1882,<sup>1</sup> and extended its scope to the territories respectively administered by the Lieutenant-Governors of Bengal and the North-Western Province, and the Chief Commissioners of Oudh and Assam, and thereby repealing all former Acts. The Act provided for the legal recognition of local agents in recruiting districts and for the execution of contracts in labour districts, and for free recruitment of labour. Section 7 of the Act provided that save as provided by Section 5, nothing in this Act should be deemed to prohibit any native of India from emigrating or entering into a contract in a labour district otherwise than under the provision of the Act.

<sup>1</sup> Act No. 1 of 1882; passed by the Governor-General's Council and assented to on 6th February, 1882.

The uncontrolled recruitment gave rise, however, to some of the grossest scandals and resulted in heavy mortality among the recruits on their way to labour districts, especially in Bengal. Under the power granted by Section 5 of the Inland Emigration Act of 1882, the Council of the Government of Bengal passed the Act (No. 1) of 1889 "to provide for the sanitation of emigrants during their passage through Bengal to the labour districts in Assam,"<sup>1</sup> and to grant powers to the Government to make the necessary rules.

The Inland Emigration Act, 1882, was amended by the Government of India in 1893.<sup>2</sup> By this amending Act the original title of the Act was changed to the Assam Labour Emigration Act, and the provisions of the Act were extended to the Chief Commissioner of the Central Provinces and also to the district of Ganjam in the Presidency of Madras. The Governor of Madras was granted power to extend the provisions of the Act, subject to the sanction of the Governor-General in Council, to other districts. By this Act the local Government was also granted power to cancel a contract for wrongful recruitment, and to provide for the repatriation of labourers with their families after

<sup>1</sup> Act No. 1 of 1889; passed by the Lieutenant Governor of Bengal in Council and assented to by His Honour and the Governor-General of India on 22nd April and 7th May, 1889 respectively.

<sup>2</sup> Act No. VII of 1893, passed by the Governor-General in Council and assented to on 21st March 1893.

such cancellation. Moreover, facilities were made for the administration of the unhealthy gardens and for the operation of the penal sanction of the contract system.

#### 4. ASSAM LABOUR AND EMIGRATION ACT, 1901

In spite of the amendments as noted above, the problems of labour supply and of control of abuses still remained unsolved. In 1895 the Government of Bengal appointed a new Commission of Enquiry, which strongly criticised some of the abuses in connection with the existing system of recruitment and recommended several remedial measures, on the basis of which was passed by the Government of India the Assam Labour and Emigration Act (No. VI of 1901).<sup>1</sup> The Act was extended to the provinces of Bengal, the North-Western Province and Oudh (which, together, now form the United Provinces), Assam, the Central Provinces, and the District of Ganjam in the Presidency of Madras, and the Local Government was granted power to extend it, with the previous sanction of the Governor-General in Council and by notification in the local official gazette, to any other parts of British India.

The main provisions of the Act were as follows :—

(1) The Local Government might, with the previous sanction of the Governor-General in Council

<sup>1</sup> Assam Labour and Emigration Act No. VI of 1901.

and by notification in the local official gazette, prohibit all persons from recruiting, engaging, inducing, or assisting any person or class of persons to emigrate from any specified parts to any labour districts, either absolutely, or otherwise than under certain provisions of the Act

(2) Every labour contract was to be in writing and in a prescribed form specifying the term for labour, monthly wages, and the price of rice to be supplied. The maximum period of contract was limited to four years, and the rate of monthly wages was fixed for men and women respectively at Rs 5 and Rs 4 in the first year, at Rs  $5\frac{1}{2}$  and Rs  $4\frac{1}{2}$  in the second and third years, and at Rs 6 and Rs 5 in the fourth year

(3) The Superintendent specially empowered in this behalf by the Local Government might grant licences to a person fitted by character to act as contractor and, on his application, also to persons to act as his sub contractors or recruiters, the latter to be employed in engaging labourers within specified areas. This licence was to be granted for one year, and could be revoked by the Superintendent *in the case of non-compliance with the provisions of the Act or any other misconduct*

(4) The Local Government was granted power to cancel any contract in case of wrongful recruitment, such as recruitment by coercion, undue influence, fraud, or misrepresentation. Provisions were also made for the repatriation of the labourer

and his dependants, if any, in the case of the cancellation of such wrongful contract.

(5) A special class of garden *sardars* was also created to recruit without registering their recruits within notified areas. The Local Government was granted option to relax any provisions relating to recruitment by garden *sardars* working under approved agencies or associations.

### *Amendment of Penal Sanction*

Grave abuses still continued, especially in connection with the administration of the penal sanction of the law. Industrial unrest in 1903 led to an Enquiry, which recommended several reforms for introducing a free system of recruitment. In 1904, an attempt was also made by a number of planters for free immigration. With a view to enquiring into the matter, Government appointed a Committee in 1906 and, on its recommendation, passed the Assam Labour and Emigration (Amendment) Act, 1908.<sup>1</sup> By this amendment the system of penal contract for new recruits, except in the recruiting districts, and also for time-expired labourers on tea gardens, was abolished. Recruitment by unlicensed contractors and the right of

<sup>1</sup> Assam Labour and Emigration (Amendment) Act (XI) of 1908; passed by the Governor-General of India in Council and assented to by the Governor-General of India on 11th September, 1908.



arrest by planters were prohibited, and facilities were created for recruitment by garden *sardars* under certain conditions. Moreover, by means of notification, the provisions relating to indentured labour were withdrawn from the Surma Valley and two lower districts of the Assam Valley in the same year.

This amendment of 1908 proving insufficient, Government decided to withdraw the provisions of the law for recruitment under contract in other areas and passed the Assam Labour and Emigration (Amendment) Act (No. VIII) in 1915.<sup>1</sup> By this amendment, the indenture system was withdrawn from the rest of the Assam Valley, recruitment by all sorts of contractors was altogether abolished and provisions were made for the creation of an Assam Labour Board for the supervision of recruitment by garden *sardars* under local agents.<sup>2</sup> Thus, after two generations, the indenture system came to an end. The total number of contracts under this system rose from 29,341 in 1882 to 70,506 in 1897, and declined to 579 in 1915-1916, when the indenture system was abolished.<sup>3</sup>

<sup>1</sup> Assam Labour and Emigration (Amendment) Act (VIII), 1915, passed by the Governor-General in Council and assented to by the Governor-General on 25th March, 1915.

<sup>2</sup> Assam Labour and Emigration (Amendment) Act (VIII), 1915.

<sup>3</sup> Reports on Immigrant Labour in Assam for the respective years.

## *Abolition of Other Penal Contracts*

Besides the penal sanction as provided by the Assam Labour and Emigration Act, there were also other penal contracts provided by the Workmen's Breach of Contract Act of 1859 and Sections 490 and 492 of the Indian Penal Code of 1860, which were utilised by planters for the employment of their workers.

The Workmen's Breach of Contract Act (VIII)<sup>1</sup> was passed in 1859, at the instance of the Calcutta Trades Association and similar other interests which memorialised the Government, setting forth losses sustained by them owing to wilful breaches of contract or desertion of service by workmen and servants and asking for the application of summary remedies. It was first proposed to limit the scope of the Act to Presidency towns, but at the suggestion of the Madras Government a provision was made authorising all Governments and Administrations to extend it to any place within their jurisdiction on condition that powers under it were to be exercised only by specially appointed officers.<sup>2</sup>

Act VIII of 1859 was limited only to those persons who had accepted advances on the promise of work. It empowered the magistrate to issue

<sup>1</sup> An Act to provide for the punishment of breaches of contract by artificers, workmen and labourers in certain cases, as modified by the 1st November, 1920.

<sup>2</sup> Report of the Assam Labour Enquiry Committee, 1921, p. 115.

orders compelling the violator either to refund the advance of money received or to perform the work undertaken at the discretion of the employer. Non compliance with the order was punishable with rigorous imprisonment to the extent of three months

This Act was supplemented by Sections 490 and 492 of the Indian Penal Code (Act XLV) of 1860, making the breach of contract of service during the voyage or journey and at the place of work a criminal offence in case the workman was carried at the expense of the employer. In the same year was also passed the Employers' and Workmen's (Dispute) Act (X of 1860) making the breach of contract a criminal offence, as will be treated later on. Although the Act of 1860 was scarcely utilised, Sections 490 and 492 of the Penal Code were made full use of, especially in connection with Act VIII of 1859.

The Act of 1859 was passed for the benefit of employers in general, but the plantations in many parts of the country, especially the tea gardens in Assam, found it advantageous to make use of it. It gave them a hold over their labourers, and at the same time saved them the expenses of importing them from abroad. At first its application was restricted to locally engaged labourers, but it was gradually extended to include the engagement of time-expired labourers, and in the Assam Valley it often replaced the Assam Labour and Emigration

Act of 1901 even in the case of new employment. The legality of applying such an indefinite Act to tea gardens was questioned from time to time, but the Assam Labour Enquiry Committee of 1906 advocated its retention, and it continued to be applied to tea gardens up to the year 1920, when its terms were somewhat modified. <sup>1</sup>

The Act of 1859 again came under scrutiny by the Assam Labour Enquiry Committee of 1921-22, which found that there were many abuses even under the amended Act, such as (1) illegal arrest of absconders ; (2) replacement of local agreement under Act VI of 1901 by long-term agreement under Act VIII of 1859 ; (3) placing minors under contracts and often arresting them and sending them to gaol ; and (4) illegal return of labourers from gaol to complete their contracts on the gardens. The Committee considered that any penal contract was an anachronism, that freedom of labourers was considerably restricted under the existing system, and that labourers had to accept wages lower than those which they could have got had they been free. Moreover, the system interfered with the free recruitment of labour. They, therefore, recommended the abolition of the Act. <sup>2</sup>

In compliance with the recommendation of the Assam Labour Committee, the Government of

<sup>1</sup> *Report of the Assam Labour Enquiry Committee, 1921-22, p. 102.*

<sup>2</sup> *Ibid., p. 92.*

India passed an Act in 1925 abolishing the Workmen's Breach of Contract Act of 1859 and also Sections 490 and 492 of the Indian Penal Code of 1860, under which workmen could be punished for the neglect of duty. The Act came into force on 1st April, 1926,<sup>1</sup> and thus marked another step in abolishing penal contract in British India. The number of workers employed under the Workmen's Breach of Contract Act of 1859 was 278,242 in 1921-22, and 117,978 workers were still under contract on 1st March, 1926, i.e., a month before the operation of the Act began.<sup>2</sup>

## 5 MADRAS PLANTERS' LABOUR ACT, 1908

Besides the plantations in Assam, those in other parts of the country also demanded penal contract as protection against the loss of advances made to their labourers. Although most of them resorted to the Workmen's Breach of Contract Act of 1859 for the purpose, the plantations in the Madras Presidency wanted to have a special law, and, at their request, the Madras Planters' Labour Act was passed in 1903. This Act was applicable to workers employed in plantations in two Madras

<sup>1</sup> *Reports on Immigrant Labour in the Province of Assam, 1926*, p. 3. A. G. Chow, *The State and Industry*, Government of India, 1929, p. 3.

<sup>2</sup> *Reports on Immigrant Labour in the Province of Assam for the respective years*.

districts on the condition that the Workmen's Breach of Contract Act had ceased to apply.<sup>1</sup>

The main provisions of the Act, which is based largely on the Assam Labour and Emigration Act, 1901, are as follows :—

(1) Every contract between a planter and a *maistry* (or a person entering into a contract with a planter for the supply of labourers to work on an estate) and every labour contract was to be in writing and in prescribed form and for a term not exceeding one year. No contract was valid if it were made with a person under 16 years of age or with a woman without the consent of her husband or guardian.

(2) A contract could be terminated on three months' notice by either party or by a labourer without notice on a ground satisfactory to a magistrate and on the repayment of the sum due by him to his employer together with a further sum of 3 annas a day for every working day of the unexpired period of his contract, or a period of three months, whichever might be the less.

(3) Every planter was to provide, at his own expense, for the labourers on his estate housing accommodation, water supply, sanitary arrangements and medical attendance, as the Local Government might by rule or special order prescribe. The

<sup>1</sup> Madras Planters' Labour Act, 1903, an Act to regulate the conditions of labour in the plantation industry of the Presidency of Madras.

district magistrate, sub-divisional magistrate, district surgeon or any other authorised officer could inspect an estate, demanding the remedying of any defects within a stated period and declare, in case of non-compliance with the demands, such an estate to be unfit for the residence of the labourers.

(4) Any labourer who without reasonable ground absented himself from his work or neglected or refused to work was, in addition to forfeiting his wages for the days of absence, liable to pay to his employer 4 annas for each such day and could be imprisoned for non-payment for a term not exceeding seven days. Desertion was punishable with imprisonment for a term extending to one month, or with a fine not exceeding Rs. 50, or with both.

On the abolition of the Workmen's Breach of Contract Act of 1859, the question of repealing the Madras Planters' Act of 1903 was considered by a committee which recommended its repeal provided that Government simultaneously introduced legislation applicable to all industries where labour was employed on a system of advances, but Government refused to undertake any such measure. An Act repealing the Madras Planters' Act of 1903, was, however, passed by the Madras Legislative Council in 1927 and became operative at the beginning of 1929.<sup>1</sup>

A large number of labourers used to be prosecuted under the Act. In 1927, *i.e.*, a year before the Repealing Act came into force, for instance, 1,282 cases involving as many persons were instituted. Of these cases, 1,184 were fined by estates managed by Europeans and 98 by estates managed by Indians. Including 488 cases pending from the previous year and 41 cases from special registrar, the total number of cases dealt with during the year was 1,811, of which 1,105 were disposed of ; only 193 persons were, however, convicted. <sup>1</sup>

## 6. COORG LABOUR ACT, 1926

While abolishing the Workmen's Breach of Contract Act of 1859, the Government of India indicated that Local Governments and Administrations might give some temporary relief to employers. On the basis of this concession, both the planters and the local landholders <sup>2</sup> in Coorg, who took advantage of this Act for securing their labour supply, pressed for the retention of the penal contract. As a result, the Coorg Legislative Council

<sup>1</sup> Government of Madras, Public Works and Labour Department, *Administration Report—Planters' Labour Act of 1903—Year 1927*, G. O. No. 704-L., 9th March, 1928, pp. 1 and 2; *Report of the Royal Commission on Labour in India*, London, 1931, p. 355.

<sup>2</sup> Landholders depend upon outside labour for the cultivation of land.



passed the Coorg Labour Act in 1926, the principles of which were based on the Workmen's Breach of Contract Act. At the instance of the Government of India, the operation of this Act was, however, limited to five years only, and its scope was confined to workmen employed in the cultivation and the production of coffee, tea, rubber and other agricultural products. The Act expired on 1st April, 1931, and with this the last vestige of penal contract disappeared from British India.<sup>1</sup>

During the years from 1926 to 1929, 13,415 cases were instituted under the Act, 2,946 persons were ordered to work out the contract or to pay an advance while 39 persons were sentenced to imprisonment. At the end of 1929 the number of cases pending was 1,944. In a large number of cases, the contract of employment under the Coorg Labour Act was signed outside the province before officials nominated by, but not under the control of, the Chief Commissioner of Coorg. The striking feature in the working of this Act was that in most cases the worker was not in the province when the case was instituted against him, and the warrant had, therefore, to be executed by the police of the district in which he resided.<sup>2</sup>

<sup>1</sup> A. C. C. — *The State and Industry*, p. 154; *Report of the Royal Commission on Labour in India*, p. 35.

<sup>2</sup> *Report of the Royal Commission on Labour in India*, pp. 35-36.

## 7. TEA DISTRICTS EMIGRANT LABOUR ACT, 1932

In the mean time, the Act of 1901, though amended in 1908 and 1915, proved to be quite inadequate for the regulation of recruitment and forwarding of labour. In 1926, the Government of India addressed Local Governments regarding the desirability of abolition or modification of the existing restrictions on recruitment. The replies of the Local Governments indicated the unsatisfactory character of some of the restrictions, and, at the same time, the necessity of preserving others. The Government of India accordingly drafted an Assam Recruitment Bill in 1928, and sent it to Local Governments for opinions, but before the replies had been available, a Royal Commission on Labour in India was appointed, and the Government of India postponed further action until after the Commission had submitted its report.

The Commission submitted its report in July 1931.<sup>1</sup> As far as plantation legislation was concerned, the Commission found the Assam Labour and Emigration Act of 1901 open to several objections. It was not intelligible to most people and some of its provisions had become obsolete through recent amendments ; but what was more serious was that

<sup>1</sup> Great Britain : Royal Commission on Labour in India—*Report of the Royal Commission on Labour in India*, pp. xviii and 590.

it hampered the free flow of labour to Assam tea gardens in the following ways :—

First, the power granted by the Act to the Local Government to prohibit emigration from any district was detrimental not only to the interests of the tea industry, but also to those of the people of that district, who, in most cases, were in dire need of work.

Secondly, the *sardari* system, which was the only means of recruitment under the law, was itself defective on several grounds, such as misrepresentation, inadequacy and costliness. Instead of being *bona fide* workers, many of the *sardars* were only nominal labourers or professional recruiters who did not hesitate to resort to misrepresentation whenever it served their purpose. The system made no provision for the supply of labour to newly-opened tea gardens. Moreover, it was a very costly system, the average cost per recruit amounting to as much as Rs. 150. A considerable number of workers, amounting to about 7 per cent. of the total, were sent out every year and about half of them did not succeed in recruiting a single labourer, and about one-third did not return to their gardens.

Finally, emigration of labour being of advantage to recruiting areas, honest propaganda could not be ruled out ; yet the Act prohibited any form of advertisement or propaganda in recruiting districts except through the *sardars*. Moreover, the provi-

sion that emigrants should not receive any assistance except through the garden *sardars*, who might not always be present on the spot, caused unnecessary delay and waiting before the recruits might be sent to Assam.

The Commission, therefore, recommended the enactment of a new Act and elaborated a scheme with a three-fold object, namely: (1) the freer movement of labour; (2) the greater security for labourers; and (3) the better administration of the law. On the basis of these recommendations, the Government of India drafted a new Bill and introduced it to the Legislative Assembly on 11th March, 1932. The two main principles of the Bill were the following: (1) the reduction of restrictions on the free movement of labour into Assam to a minimum and the establishment of conditions which would make it possible eventually to dispense with all control; and (2) the granting of the statutory right, to all those who emigrate under it, to be repatriated with their dependants from Assam at the expense of the employer.<sup>1</sup> The Bill was passed in 1932 as the Tea Districts Emigrant Labour Act (No. XXII),<sup>2</sup> which replaced the Assam Labour and Emigrant Act of 1901 and came into force on 1st October, 1933.<sup>3</sup>

<sup>1</sup> *Report of the Royal Commission on Labour in India*, pp. 359-82.

<sup>2</sup> *Legislative Assembly Debates*, 23rd September, 1932; *Council of State Debates*, 30th September, 1932.

<sup>3</sup> *Annual Report on the Working of the Assam Labour Board, 1932-33*, p. 5.

The main provisions of the Act are as follows<sup>1</sup> :—

(1) Subject to the control of the Government of India, Local Governments are granted powers to control the forwarding or both recruitment and forwarding of assisted emigrants (i.e., those emigrants who secured assistance of any kind in going to Assam) by locally licensed forwarding agents or recruiters and certified garden *sardars* through prescribed routes with proper arrangements for food, shelter and medical inspection. The application of these provisions may be partially or completely relaxed in case of certain areas.

(2) Every emigrant labourer, that is, a person who has last entered Assam as an assisted emigrant and was employed on a tea estate, shall have the right of repatriation at the expense of the employer after three years of service or even earlier in certain contingencies or any other sufficient cause, such as dismissal by the employer before the expiry of three years or otherwise than for wilful and serious misconduct, impairment of health, unsuitability of work supplied, and unlawful recruitment such as the recruitment under coercion, undue influence, fraud or misrepresentation. The family of an emigrant labourer other than a married woman living with her husband and having no child living with her, dying within three years of entry

<sup>1</sup> *Gazette of India*, 15th October, 1912, Part IV

into Assam is entitled to repatriation by the employer.

(3) The exercise of the power and the discharge of the duties under this Act should be conferred upon a Controller of Emigrant Labour and one or more of the deputies to be appointed by the Governor-General in Council and to be maintained by an annual cess to be paid by employers. The Controller and Deputy Controller shall be public servants within the meaning of the Indian Penal Code and shall have the power to enter (i) any tea estate, open or enclosed, where emigrant labourers are believed to work or live, as well as any office of a tea estate, (ii) any office or dépôt maintained by a labour recruiting agency in Assam, or in a recruiting province, (iii) any train, vessel or vehicle used for the conveyance of assisted emigrants, and (iv) to do any other reasonable act which is expedient in the discharge of their duties.

(4) The provisions of the Act are intended to apply only to emigration for work on tea plantations, but power is retained to extend its application to other industries in Assam. These provisions are not applicable to those who, at any time within the previous two years, have worked as labourers on a tea estate. It is unlawful to assist persons under 16 to emigrate, unless they are accompanied by their parents or guardians, or to assist a married woman who

with her husband unless she is so proceeding with the consent of her husband.

The Assam Labour Board created by the Amending Act of 1915 was abolished by this Act; and its work was taken up by the Controller of Emigrant Labour who was appointed immediately after the new Act came into operation in 1933.

## 8. HEALTH AND WELFARE MEASURES

Reference has already been made to various measures for the recruitment and employment of plantation labour in Assam, Madras and Coorg. Labour conditions on plantations outside these provinces have not yet been brought under any legislative control.

With the exception of Assam, Bengal employs the largest number of labourers on teagardens, especially in the district of Jalpaiguri, which has undertaken some health and welfare measures. In 1912, for instance, the Jalpaiguri Labour Act was passed for providing sanitation and medical help for labourers on the tea gardens in the district. The Act aimed at providing inspection of the tea gardens, but very few tea gardens were actually inspected. In 1925-19, for instance, there were 135 tea gardens in the district employing 205,793 workers, but only four of these gardens were inspected during the year.<sup>1</sup> In 1923, a Bill

<sup>1</sup> *Annual Report on the Working of Jalpaiguri Labour Act, 1912*, Calcutta, Bengal Government Press p. 1

was introduced under the name of the Bengal Tea Gardens Public Health Bill, with the object of setting up a Board of Health for tea-producing areas of Bengal, and to replace the Jalpaiguri Act of 1912, but it lapsed with the dissolution of the Legislative Council in that year.<sup>1</sup>

The Royal Commission on Labour has made a number of recommendations for the improvement of health and welfare of the workers on plantations, the most important of which are as follows :—

(1) The establishment by Statute of Boards of Health and Welfare at convenient planting areas. Each Board should be financed by means of an annual cess levied on all plantations of the area concerned and consist of a majority of planters' representatives, of persons nominated by the local Government to represent workers, and of a collector, or deputy-commissioner of the district, the director of public health, the district health officer and at least one woman member, with the Protector (Controller) of Emigrant Labour having the right to attend but not to vote. The Board should have the power of making regulations in respect of drinking water, conservancy, sanitation, drainage, medical facilities and minimum housing standards.

(2) Provisions for special measures, such as : (a) the maintenance by plantations of birth and death

<sup>1</sup> The Government of India, Calcutta : A. G. Clow, *The State and Industry*, p. 165.



registers, (b) the carrying out of anti-malarial work under skilled advice and supervision, (c) annual mass treatment of the labour forces for hookworm, (d) construction of bathing and working places in the vicinity of the house lines and tube-wells, whenever conditions are suitable, (e) the adoption by plantations of the practice of giving free food to all indoor patients in hospitals, and (f) the employment of women doctors for confinement in hospitals, for the training and supervision of midwives and dais, and for child welfare work.

(3) Among other welfare measures recommended by the Commission, the most important are the following : (a) the provision by legislation for maternity benefit ; (b) prohibition by law of the employment of children before the age of 10 years ; (c) the organisation by plantation managers of suitable recreation for their workers and the provision of playground for general recreational purposes.

(4) The District Health Officers should act as Government inspectors of plantations and should be employed to deal with breaches of public laws and regulations on estates. The Director of Public Health and his Assistants should also be *ex-officio* inspectors of plantations.

Apart from that of recruitment, plantation legislation is a provincial question, especially under the new Constitution. The implementing of these

though restricted mostly to recruitment, concerns both the enforcement of provisions relating to recruitment and forwarding and the enforcement of provisions relating to certain conditions in tea gardens in Assam. With a view to facilitating the administration, the Tea Districts Immigrant Labour Act, 1932, has granted the power of making rules to the following authorities :—

(1) The Governor-General in Council may, by notification in the Gazette of India, make rules regulating the procedure of the Controller of Emigrant Labour in the discharge of his duties, and also the procedure of the collection of Emigrant Labour Cess.

(2) Subject to the control of the Governor-General in Council, Local Governments may, by notification in the local official gazette, declare any area within their jurisdiction to be a controlled emigrant area and any part or whole of such controlled area also to be a restricted recruiting area, to which special provisions of the Act may be applicable. They may also make rules the procedure of recruitment and licencing of recruiting and accommodation, diet and conveyance.

(3) The Local Government may make rules for the management of the labour force to be employed in the tea gardens.

particulars of such certificates for recruiting purposes and may also, by notification in the local official gazette, make rules requiring the tea estates to submit returns of wages and earnings of labourers employed by them.

Under the Assam Labour and Emigration Act of 1901, Government was directly responsible for the supervision of recruitment and forwarding, e.g., the examination of prospective emigrants before registration and provision of sanitary and medical arrangements in depôts and conveyances *en route* to Assam tea gardens. The Amending Act of 1915 created the Assam Labour Board for supervising local agents under whom garden *sardars* had to recruit, and Government issued licences only on the recommendation of the Board. But the Board had no executive authority and this defect was removed by the Act of 1932, which combined both supervisory and executive power and vested it in a Controller of Emigration, who is now the chief administrator of the Law. He has been granted power to secure the proper co-ordination of the whole system and is thus in a position to advise where to impose control and where to relax, as required by the new Act.

The responsibility of the Controller of Emigrant Labour is three-fold: (1) the enforcement of the law relating to repatriation in Assam; the District Magistrate in Assam is also given collateral

power, (2) the supervision of the forwarding routes, e g , inspection of depôts, trains, vessels or vehicles, etc., and (3) supervision of the conditions in the recruiting provinces where his power *is limited to inspection and advice*. The executive action in this connection is entrusted to the local authorities

Under this Act the forwarding of labourers becomes an important act as distinct from the mere recruitment and must be undertaken by a local forwarding agent licensed for the purpose in the controlled emigration areas. When a whole or part of a controlled emigration area has been declared to be also a restricted recruiting area, recruitment may be undertaken by only licensed recruiters or certified *sardars*. A licence is liable to cancellation in case a forwarding agent, recruiter or *sardar* fails to comply with the rules laid down for his guidance. Although the executive power rests with the Local Government, the Controller of Emigrant Labour is given power to supervise the whole procedure of recruitment and forwarding.

In 1935-36 recruitment was carried on from the controlled emigration areas, namely, the six recruiting provinces of Bengal, Bihar, Orissa, the Central Provinces, Madras and the United Provinces, and 20,810 persons were recruited by the Ten Districts Labour Association through their depôts in these provinces, and 1,942 persons by three

other local forwarding agencies at Ranchi. The Bombay Presidency continued to be an uncontrolled immigration area and 423 persons were recruited by the Tea Districts Labour Association.

During the year, 30 licences were granted to 30 local forwarding agencies for recruitment in the controlled immigration areas and others were renewed locally by the district magistrates. In addition to the local forwarding agency depôts, the Tea Districts Labour Association maintained 35 rest houses in the less accessible areas of British India for the use of recruits and their families. The inspection of the local forwarding agencies was carried on by both the Controller and local authorities, such as district and other magistrates, civil surgeons and other medical and police officers and out of 103 inspections 48 were carried on by the controller himself.<sup>1</sup>

The Tea District Emigrant Labour Act came into force with effect from 1st October, 1933, and 1st October, 1936, was the first day on which this statutory right of repatriation fell due to any immigrant labourer. During the year, 1,796 persons consisting of 901 immigrant labourers and 895 members of their families, were repatriated. Of the 901 labourers, 62 were repatriated for ill-health, 161 for unsuitability for tea garden

<sup>1</sup> *Annual Report on the Working of the Tea District Emigrant Labour Act (XXII of 1932) for 1935-36*, pp. 26-27.

labour, 320 by the labourers' own request and 341 for the death of the labourers and 17 for various other reasons.<sup>1</sup>

Provisions for the inspection of tea gardens have been made from the very beginning of plantation legislation. At first all tea gardens in Assam employing indentured labourers, or 50 or more other labourers, were liable to annual inspection, but subsequently inspection was made biennial except in the case of "unhealthy" gardens (i.e., gardens in which the death-rate exceeded 70 per thousand inhabitants, and the total number of deaths was 10 or more) which had to be inspected annually.<sup>2</sup> The effect of these amendments regarding inspection is the decline in the number of gardens annually inspected. Thus, out of a total number of 765 gardens employing 50 persons or more, only 430 or 56 per cent. were inspected in 1935-36, as compared with 86 per cent. in 1898.<sup>3</sup> This relaxation of inspection is due partly to the general improvement in health conditions on tea gardens and partly to the abolition of the indenture system under which the Government was specially responsible for providing conditions of health for work.

<sup>1</sup> *Annual Report on the Working of the Tea District Immigrant Labour Act (XIII of 1912) for 1915-16*, p. 16.

<sup>2</sup> *Standard on Immigrant Labour in Assam*, 1926, p. 7.

<sup>3</sup> *Curried* is in *Report on Labour Immigration into Assam*, 1927, p. 43. *Annual Report on the Working of the Tea District Immigrant Labour Act (XIII of 1912)*, 1935-36, Statement A.

The inspection of tea gardens is done partly by the Controller and partly by executive officers. The local experience and proximity to the tea gardens enable the executive officers to make effective inspection. In the case of unhealthy gardens inspection by civil surgeons has been provided. In 1935-36, for instance, out of 430 inspections, 75 were made by the Controller, 177 by district magistrates and 178 by sub-divisional magistrates, *i.e.*, more than four-fifths of the inspections were made by the executive officers.<sup>1</sup>

Until very recently, criminal offences under plantation legislation covered a very wide field. The violation of both the rules of recruitment and the terms of a labour contract fell within its scope. Moreover, the employment of labour by planters under the Workmen's Breach of Contract Act of 1859 added new duties to the regulation of employment. The amendment of plantation legislation in 1920 and the abolition of the Act of 1859 in 1925, have very greatly simplified the administration of plantation law.

Criminal offences in connection with the employment of labourers on tea gardens may be committed by either employers or labourers. Employers' offences may arise from the use of

<sup>1</sup> *Annual Report on the Working of the Tea District Emigrant Labour Act (XXII of 1932), 1935-36, Statement XI.*

force or similar other causes, and labourers' offences from unlawful assembly or rioting, assault or hurt, etc. Complaints by workers against planters have been very few in number from the very beginning, and those by planters against labourers still fewer. In 1932-33, for instance, there were 32 complaints by labourers against planters, involving 42 persons, and 8 by planters against labourers, involving 49 persons. Of the latter, 29 were imprisoned and 12 were fined.<sup>1</sup> In 1935-36 the number of such complaints decreased and there were only 8 complaints by labourers against managers on various grounds and 4 complaints by managers against labourers for unlawful assembly or rioting.<sup>2</sup>

<sup>1</sup> Cited and taken from the *Report on Immigrant Labour in the Province of Assam, 1932-33*, "Statement VIII."

<sup>2</sup> *Annual Report on the Working of the Two District Immigrant Labour Acts (XVII) of 1935, 1936*, "Statement X."



## CHAPTER II

### FACTORY LEGISLATION <sup>1</sup>

The most important labour legislation in India relates to the factory system, which has made almost steady progress from the middle of the last century, and employs the largest number of industrial workers in the country. Factories in India may be divided into two categories, namely: (1) "Factories" in the legal sense of the word, or those undertakings which use power machinery and employ twenty persons or more and come automatically within the scope of the Factories Act. Under the provisions of the Act, some of the undertakings employing ten persons or more, whether using power or not, may also be brought under the Factories Act by notification in the provincial gazette. (2) Unregulated factories or those undertakings which are still outside the legislative control, consisting of both small power factories and workshops; the exact number of these factories is not known, but those factories which use power machinery and employ ten person or more, but less than twenty persons, have been estimated at 2,000, and those undertakings which

<sup>1</sup> Cf. *Author's Factory Legislation in India*, Berlin, 1923.

do not use power machinery but employ fifty persons or more have been estimated at 1,000.<sup>1</sup>

Closely connected with factories are business and commercial undertakings including offices, hotels, restaurants, theatres, cinemas, etc., which together may conveniently be termed as "shops." The numbers of such shops are not known, but there is no doubt that they employ perhaps the largest number of workers throughout the country. Efforts are now being made by provincial Governments to bring them under legislative control.

The progress of the factory industry in British India is best indicated by the increase in the number of factories from 653 employing an average daily number of 316,715 in 1892, to 9,323 employing an average daily number of 1,652,147 in 1936, showing over a fourteen-fold increase in the number of factories and a five-fold increase in the number of workers, although there was some slight decrease in recent years. Large numbers of factories are seasonal. In 1936, for instance, of the total number of factories, 5,581 factories employing 1,343,702 were perennial, and 3,742 factories employing 308,427 seasonal. Moreover, 307 were notified factories, under Section (5) (1) of the Factories Act, 1934.<sup>2</sup>

<sup>1</sup> *Report of the Royal Commission on Labour in India 1911* pp. 93 and 102.

<sup>2</sup> *Cf. Statistics of Factories subject to the Factories Act, 1934, 1936 and the previous years.*

The increase in number of factories and factory workers is due to a two-fold reason : first, the normal growth of the factory system leading to the increase of new undertakings and the employment of new workers ; and secondly, the gradual extension of the definition of a factory by subsequent enactments and amendments to include undertakings employing smaller numbers of workers.

### 1. INDIAN FACTORIES ACT, 1881

The first cotton mill in Bombay was established in 1851, and in 1872-73 there were 18 cotton mills employing about 10,000 workers, many of whom were women and children.<sup>1</sup> Attention was soon drawn to the abuses of child and woman labour. The rapid growth of the cotton mill industry in Bombay gave rise to a spirit of rivalry among Lancashire manufacturers, and their agitation for the regulation of labour conditions in India, which was supported by philanthropists both in England and in India, led to the appointment, by the Government of Bombay, of a Labour Commission in 1875.<sup>2</sup> The majority of the Commissioners failed to see the necessity for any regulation. But new mills continued to spring up, the number of mills rising to 56 and of spindles to 1·5 millions by

<sup>1</sup> Great Britain: *Parliamentary Papers*, 1873, Vol. 50, House of Commons, 172, p. 92.

<sup>2</sup> Great Britain: *Parliamentary Debates*, 1875, Vol. 222, p. 76.

1879.<sup>1</sup> The agitation in the Press and Parliament at last resulted in the enactment of the first Indian Factories Act in 1881.

The main provisions of the new Act were as follows<sup>2</sup>: (1) "factory" was defined as being any premises (other than indigo factories and tea and coffee plantations) which used mechanical power, employed 100 persons or more and worked for more than four months in the year; (2) "child" was defined as being any person below 12 years of age, and the minimum and maximum ages for employment of children were fixed at 7 and 12 years respectively, their hours of work were limited to 9 a day with an interval for rest of one hour, and they were also granted four holidays in a month; (3) provisions were also made for safety and inspection, and (4) the power of making rules was granted to Local Governments to facilitate the carrying out of the administration of the Act.

### *Indian Factories (Amendment) Act, 1891*

Insufficient protection of children, and in particular the failure to regulate woman labour, gave rise to agitation for the amendment of the Act no sooner than it was passed. Enquiries were made into labour conditions by a British factory inspector in 1892 and also in 1897, and by a Bombay Factory

<sup>1</sup> *Imperial Gazetteer of India* 1891, Vol. 2, p. 177.

<sup>2</sup> *Report of the Commission on Factories and Labour in India* 1891.

Commission<sup>1</sup> in 1884, the latter recommending the amendment of the Act. In the mean time, the First International Labour Conference, held at Berlin in 1890,<sup>2</sup> recommended, among other things, the regulation of woman and child labour. Agitation was again started by the Manchester Chamber of Commerce to apply the recommendations of the Berlin Conference to Indian factories. These attempts were opposed by the British and Indian textile mill-owners in India. In order to study the question fully, the Government of India appointed a Factory Commission in the same year and, on the basis of its recommendation, passed the Indian Factories (Amendment) Act of 1891.<sup>3</sup>

The main provisions of this amendment were as follows: (1) the definition of "factory" was extended to include any premises which used mechanical power, employed 50 persons or more and worked four months or more in the year, Local Governments being granted power to apply it to premises employing even 20 persons or more; (2) hours of work for women were limited to 11 in any one day with an interval of rest of  $1\frac{1}{2}$  hours or proportionately less for a smaller number of hours; (3) "child" was defined to be any person below

<sup>1</sup> *Report on Bombay Factory Commission of 1884*, Bombay, pp. 5-22.

<sup>2</sup> Great Britain: *Parliamentary Papers—International Labour Conference of Berlin, 1890*, Vol. 81, C. 6042, pp. 72-151.

<sup>3</sup> *Report on the recent Factory Commission on Indian Factories, 1890-91*, pp. 1-14.

14 years of age, and the minimum and maximum age limits for employment of children were raised to 9 and 14 respectively, and their hours of work were limited to 7 a day, with an interval or intervals of rest amounting in the aggregate to at least half an hour; (4) the working hours for women and children were limited to the period between 5 a.m. and 8 p.m.; (5) all factories were required to stop work for a full half-hour between noon and 2 p.m., and to grant a weekly holiday on Sunday or any other substituted day in the week; and (6) Local Governments were granted power to make rules regarding such measures as sanitation, cleanliness, ventilation and water supply.<sup>1</sup>

## 2. INDIAN FACTORIES ACT, 1911

The Factories (Amendment) Act of 1891 was followed by prolonged depression in the cotton mill industry in India. But a boom in the industry in 1904 and 1905 led to excessive hours of work. An investigation by Government revealed the fact that out of 74 mills in Bombay, 16 mills worked 14 hours a day, and 33 mills 13 hours a day. Even the factory workers sent a memorandum praying for regulation of their hours of work. The question of factory legislation was thus revived, and a Bill was introduced to that effect in 1905. The following year a delegation of Lanca-

<sup>1</sup> *Indian Factories (Amendment) Act, 1911*

shire factory workers to the Secretary of State for India demanded the restriction of the hours of labour of men workers in India. In order to consider the matter in its full significance, the Government of India appointed a Textile Committee<sup>1</sup> in 1906 and a Factory Labour Commission in 1907,<sup>2</sup> both of which recommended the regulation of the hours of labour of men workers in textile industries, although the latter was opposed to any direct legislation for the purpose. A new Bill was introduced into the Legislature in 1909 and passed in 1911.

The main provisions of this Act were as follows: (1) hours of work for adult men and children were limited to 12 and 6 respectively in any one day in all textile factories, which were also prohibited from using mechanical or electrical power for more than 11 hours a day; (2) the hours of work for children in other factories, and those for women in all factories, remained respectively at 7 and 11 as before, and were limited to the period between 5-30 a.m. and 7 p.m.; (3) in addition to a certificate of age, children were required to produce a certificate of physical fitness; (4) women and children were prohibited from being employed in certain dangerous work, such as the cleaning of any part of mill-gearing or machinery of the factory

<sup>1</sup> Cf. *Report of the Textile Factory Committee of 1906*, pp. 16-17.

<sup>2</sup> Cf. *Report of the Factory Labour Commission, 1907*, pp. 7, 31.

while the same was in motion, or work in any part of a factory for pressing cotton in which a cotton-opener was at work, unless its feed end was in a room separated from the delivery end.<sup>1</sup>

### *Indian Factories (Amendment) Act, 1922*

Not long after the Factories Act of 1911 came into force the World War broke out. It gave a new impetus to the growth of industry and was followed by the rise of a well-organised class of Indian industrialists and a self-conscious class of wage workers. Moreover, the Government of India realised the importance of making India self-sufficient as far as the basic industries were concerned, and adopted, on the recommendation of the Industrial Commission of 1916-18, a new policy of national economy.<sup>2</sup>

In the mean time, the International Labour Organisation was inaugurated as a part of the League of Nations under the Treaty of Versailles of 1919. Under its auspices, the first International Labour Conference was held at Washington in 1919, and, among other things, draft Conventions were adopted on hours, minimum wage, night work of women and night work of young persons. The Hours Convention, while adopting a 48-hour week

<sup>1</sup> *Indian Factories Act (No) of 1911*

<sup>2</sup> *Report of the Indian Industrial Commission, 1916-1918* pp. 267-68



and an 8-hour day for all countries, was increased to a 57-hour week for Japan and a 60-hour week for India.<sup>1</sup> The Minimum Age Convention fixed 14 years as the minimum age for the admission of children to employment in industrial occupations for all countries except Japan and India, for which the age of 12 years was provided; in the case of Japan, however, it was also provided that children over 12 years of age might only be admitted to employment if they had finished the required course for children in an elementary school.<sup>2</sup> The Night Work of Women Convention prohibited the employment of all women and girls at night, although it permitted India to suspend the prohibition in respect of industrial undertakings other than factories as defined by the Factories Act. The Night Work of Young Persons Convention, while prohibiting the employment of young persons under 18 years of age at night, fixed the age of 16 and 14 years for Japan and India respectively, and in the case of India, limited the application of the Convention only to factories.<sup>3</sup>

Of these Conventions, those relating to hours of work and night work of women and young persons were ratified by the Government of India

<sup>1</sup> International Labour Office : *Draft Conventions and Recommendations adopted by the International Labour Conference, Draft Convention No. 1, Articles 5 and 6.*

<sup>2</sup> *Ibid.*, Draft Convention No. 5, Articles 5 and 6.

<sup>3</sup> *Ibid.*, Draft Convention No. 6, Article 1.

in 1921, while the principles of the Minimum Age Convention, though not ratified, as it required to be applied to "manufactories working with power and employing more than 10 persons,"<sup>1</sup> were accepted as regards factories covered by the Indian Factories Act. In consequence, the Indian Factories Act of 1911 was amended in 1922, making some important changes in the provisions.

The most important of these amendments were as follows: (1) the scope of the Act was extended to include all industrial undertakings using mechanical power and employing 20 or more persons, and giving Local Governments the power to apply the law, by notification in the local official gazette, to establishments employing not less than 10 persons and working with or without mechanical power; (2) the hours of work for all adult workers, including both men and women, were restricted to 11 in any one day and 60 in any one week; (3) "child" was defined to be a person who was under 15 years of age, and the minimum and maximum ages for the employment of children were raised to 12 and 15 years respectively, and their hours of work limited to 6 a day; moreover, in addition to medical examination for age and physical fitness before admission to employment in factories, children were required to undergo re-examination for continuing work, if thought necessary by an inspector, and their night work was

<sup>1</sup> International Labour Office - Draft Convention No. 5, Article 5 (a).

prohibited ; (4) all workers were granted a period of one hour's rest for work exceeding 6 hours, which could be divided into two periods at the option of the workers ; they were also granted a day of rest in a week, and no worker was permitted to go without a holiday for more than 10 days at a time ; (5) in case of overtime, workers should receive at least  $1\frac{1}{2}$  times the normal rate of pay ; (6) women and young persons under 18 were prohibited from employment in certain lead processes ; and (7) the Governor-General in Council was empowered to make rules for the disinfection of wool in factories affected with anthrax.<sup>1</sup> This power has, however, been transferred to the Provincial Government since 1st April, 1937, when autonomy was established in the Provinces.

### *Indian Factories (Amendment) Acts, 1923-31*

The Indian Factories Act of 1911 was again amended in 1923 with a view to effecting some minor changes for administrative purposes.<sup>2</sup> Some of the difficulties still remaining, the Government of India again passed an amending Act in 1926 with a view to giving effect to some of the recommendations of the Local Governments as well as of the Simla Conference of the Chief Inspectors of Factories of 1924.<sup>3</sup> By this amendment the scope

<sup>1</sup> *Indian Factories (Amendment) Act (XII) of 1922,*

<sup>2</sup> *Indian Factories (Amendment) Act (IX) of 1923.*

<sup>3</sup> *Labour Gazette, 1925, pp. 266-74; 1926, pp. 663-74.*

of the Act was made more precise and the duties of the certifying surgeons more definite, but the most important provision of the amending Act was the infliction of penalties on parents or guardians for permitting their children to work in two factories on the same day.<sup>1</sup> The Factories Act was again amended in 1931,<sup>2</sup> enabling the Local Governments to make rules for providing precautions against fire in factories.

### 3. INDIAN FACTORIES ACT, 1934

In the mean time, the Royal Commission on Labour made, *inter alia*, several recommendations for the amendment of the Indian Factories Act. In order to give effect to these recommendations and to consolidate and amend the law regulating labour in factories, the Government of India drafted a Bill with a triple object, namely, (1) reduction of hours of work; (2) improvement of working conditions; and (3) better observance by factories of the provisions of the Act,<sup>3</sup> and circulated it, on 10th June, 1932, to Local Governments and Administrations for eliciting public opinion. On 8th September, 1932, the Bill, as modified in the light of various suggestions put forward by Local Governments,

<sup>1</sup> *Indian Factories (Amendment) Act (XXVII) of 1926.*

<sup>2</sup> *Indian Factories (Amendment) Act (XIII) of 1931.*

<sup>3</sup> Government of India, Department of Labour, Circular Letter No. L/301, 10th June, 1932; *Labour Gazette (Bombay)*, January, 1933, pp. 358-59.

employers' and workers' organisations, and other interested parties, was introduced into the Legislative Assembly and was passed in 1934.<sup>1</sup> The new Act came into force on 1st January, 1935.

The chief provision of the Act are as follows :—

(1) “ Factory ” is defined to mean “ any premises including the precincts thereof whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Indian Mines Act, 1923.”

A distinction is made between seasonal and non-seasonal factories, the former working only for a season of 180 days or less in the year and generally comprising factories connected with cotton-ginning and cotton or jute pressing or manufacturing processes connected with sugar, tea, coffee, rubber, indigo, groundnut and lac. The Local Government may, by an order in writing declare the different branches of a specified factory as separate factories for all or any of the provisions of the Act. Moreover, under Section 5 (1), the Local Government is granted power to apply the Act, by notification

<sup>1</sup> *Legislative Assembly Debates*, 8th and 15th September 1933; *Gazette of India*, 3rd March, 1934, Part V, pp. 44-59.

(5) The period over which a working day may be spread is fixed at  $7\frac{1}{2}$  hours for children and 13 for adults, whether men or women. Women and children may not be employed before 6 a.m. or after 7 p.m., but the Local Government may, by notification in the local official gazette, vary these limits so as to make the working day fall within any span of 13 hours between 5 a.m. and 7.30 p.m. in respect of any class of factories for the whole or any part of the year. The object of this provision is to secure for women a rest period of not less than 11 hours, as prescribed by the International Labour Convention on this subject. Local Governments are also granted power to make modification of the above restrictions in the case of women employed in fish-curing and fish-canning factories to prevent damage to, or deterioration in, any raw material.

(6) The provisions for health and safety have been amplified and made more definite. The Local Governments have been empowered to make rules for (a) prescribing standards of artificial humidification and methods to be adopted to secure their observance; (b) protecting workers against the effects of excessive heat; (c) requiring any factory employing more than 150 workers to provide adequate shelter for the use of workers during the period of rest; (d) requiring any factory employing more than 50 women to reserve a suitable room for the use of their children, and prohibiting the

admission of children under the age of 6 into any part of such factory in which a manufacturing process is carried on ; and (e) requiring factories to secure a certificate of suitability of any building which is new or in which any structural alteration has been made. Government has also been empowered to declare the nature of what are regarded as hazardous operations and to secure the protection of all workers engaged in those operations.

(7) The procedure of inspection has been made more precise and the power of an inspector has been increased. In case of any danger to life or safety in the condition of a building, a part of a building or machinery, an inspector is authorised to issue orders in writing specifying the measures to be adopted before a specified date and even to prohibit its use until it has been properly repaired or altered. The enforcement of the law and the provisions governing the observance by employer have been clarified and elaborated and the power of making rules in certain cases has been made subject to previous publication. While the old standard of fine, particularly of offences committed by managers or occupiers (persons having ultimate control over the affairs of factories) has been retained, a new feature has been added in that higher punishment may be inflicted for subsequent offences relating to hours of work, overtime, children, adolescents and

women. The period within which a prosecution may be preferred has been extended from 6 to 12 months in certain cases. Moreover, the member of a firm or association to be nominated as an occupier must be a resident in British India.

### *Hazardous Occupations (Lead) Rules, 1935*

In exercise of the powers conferred by subsection 4 of Section 33 of the Factories Act, 1934, the Governor-General in Council made rules called the Hazardous Occupation (Lead) Rules in 1935 and declared every operation involving the use of lead compounds to be hazardous when carried on in any factory, and prohibiting the employment of women, adolescents and children except in accordance with the following special provisions: (a) special certification of fitness and the carrying of a token thereof while at work; (b) periodical medical examinations by certifying surgeon at intervals of not more than three months; and (c) provisions made in the factory for the elimination of dust or fumes of lead compounds. Moreover, no food, drink or tobacco shall be brought in or consumed in such working room and adequate protective clothing should also be provided by the employer for each worker.

### *Indian Factories (Amendment) Act, 1955*

The Factories Act of 1934 was amended in 1955. Contrary to the ~~Draft~~ Convention of 1919,



which was ratified by the Government of India in 1921,<sup>1</sup> the Factories Act of 1934 granted powers to Local Governments to exempt women holding supervisory posts in factories from the provision prohibiting night work. Meanwhile, some Member States of the International Labour Organisation having desired the exemption of women in supervisory capacities from this Convention and having been unable to do so under the ruling of the Court of International Justice, the International Labour Conference adopted a revised Convention in 1934 granting women in supervisory capacities the right to work at night. The Government of India ratified this revised Convention in September, 1935, but at the same time amended the Factories Act of 1934<sup>2</sup> prohibiting, *inter alia*, the night work of women in Indian factories in any capacity whatsoever, on the ground that it was contrary to the social custom in India.<sup>3</sup>

### *Indian Factories (Amendment) Act, 1936*

The Factory Act of 1934 was further amended in 1936 with a view to clarifying and extending the definition of a factory. An ambiguity arising as

<sup>1</sup> Cf. *Legislative Assembly Debates*, 2nd April, 1935 and *Council of States Debates*, 26th April, 1935.

<sup>2</sup> Cf. *Legislative Assembly Debates*, 18th September, 1935 and *Council of State Debates*, 26th September, 1935.

<sup>3</sup> *Gazette of India*, 7th September, 1935, Part V; 5th C. S. 1935 Part IV.

to whether work employing 10 persons or more and done partly or wholly in the open air should be included among the premises to which the Local Government could, under Section 5 (1), apply the Factories Act, and the Government of Bombay finding difficulty in applying the existing Act to open-air undertakings—e.g., *dhobighats* (laundries) in Ahmedabad—where the conditions of work required legislative control, the Government of India amended the Act in April, 1936,<sup>1</sup> granting Local Governments power to notify as factories, whenever necessary, all industrial undertakings which carry on their work partly or entirely in the open air.<sup>2</sup>

#### 4. PROPOSALS FOR FURTHER CENTRAL LEGISLATION

Besides these factories working under factory legislation as described above, there are also considerable numbers of unregulated small-power factories where machinery is often erected in unsuitable and unsafe buildings and where there are no protective guards to shafting, belting and machinery and no adequate sanitary arrangements, both as regards latrines and washing conveniences, and no regulations of the age at which children may be employed and of the hours of work, and

<sup>1</sup> *Legislative Assembly Debates*, 16th March and 21st April, 1936; *Council of State Debates*, 23rd April, 1936.

<sup>2</sup> *Gazette of India*, 21st March, 1936, Part V; 2nd May, 1936, Part IV.

although the number of women and children employed in them is rather small, they need regulation.<sup>1</sup> In respect of the factories using power machinery and employing less than 20 but more than 10 persons, the Royal Commission recommended that the sections of the Factories Act relating to health and safety with necessary ancillary provisions (i.e., relating to inspection, making of rules and penalties and procedure) should be applicable automatically, and that Provincial Governments should also be given powers to apply them to similar places employing less than 10 persons where conditions are dangerous.<sup>2</sup> The Government of India also made a suggestion as to the possible methods of advance in the regulation of these factories and a memorandum was submitted to the Seventh Industries Conference held in 1935.<sup>3</sup>

With a view to giving effect to the above recommendation, the Government of India issued, on the 6th September, 1937, a circular letter in respect of unregulated small-power factories to all provincial Governments and Administrations, requesting replies before the 1st January, 1937, and putting forward the following two proposals : (a) the provisions of the Factories Act dealing with health, safety, children and registration should be

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 92.

<sup>2</sup> *Ibid.*, p. 93.

<sup>3</sup> *Bulletins of Indian Industries and Labour*, No. 56.

statutorily applied to power factories employing from 10 to 20 persons, if any one of those persons is not qualified to work as an adult; and (b) Provincial Governments should be granted power to extend these provisions of the Act, by notification, to power factories employing less than 10 persons, if any one of those persons is not qualified to work as an adult.<sup>1</sup> Under the Factories Act, all persons over 17 are adults and persons between the ages of 15 and 17 are deemed to be children unless they are certified as fit for adult employment. The number of children and adolescents in such factories is small and the effect of this measure would be to diminish them still further and make them depend more and more upon adult workers or certified adults. The administrative burden for the enforcement of this measure would, therefore, be light and simple.

In respect of workshops or factories which do not use power machinery but employ 50 persons or more, the main difficulties were the unsuitable and dilapidated nature of the building used, absence of any adequate sanitation, poor lighting, defective ventilation, overcrowding and long hours, and above all, a preponderance in certain cases of the labour of under-aged children.<sup>2</sup> The Royal Commission on Labour recommended the passage

<sup>1</sup> The Government of India, Department of Industries and Labour, No. L. 3060, dated Simla, the 6th September, 1937.

<sup>2</sup> *Report of the Royal Commission on Labour in India*, p. 94.

of a separate Act, brief and simple, to apply to factories working without power machinery employing 50 or more persons during any part of the year and the regulation of the hours of work for children between 10 and 14 years of age.<sup>1</sup> The Government of India submitted a memorandum on the subject to the Seventh Industries Conference noted above, indicating the methods to be applied in such cases.

With a view to implementing the recommendations on the regulation of workshops, the Government of India invited the opinion of Provincial Governments in a circular letter issued on the 11th October, 1937, with a request for the submission of a reply before the 15th February, 1938.<sup>2</sup> The Government of India emphasised the consideration of the following points in connection with this proposal: (1) the necessity of protecting children against the offensive and dangerous operations in certain industries; (2) the necessity of action in the matter by the central authority as the provinces might not be willing to undertake such measures for fear of unfair competition; (3) the advisability of regulating all the workshops in certain industries, irrespective of the number of persons employed therein; (4) the exclusion of all children under 12 years of age instead of under 10 as recommended

<sup>1</sup> *Report of the Royal Commission on Labour in India*, pp. 100-01.

<sup>2</sup> Government of India, Department of Industries and Labour, No. L. 3060, dated Simla, the 11th October, 1937,

by the Royal Commission ; and (5) the advisability of granting power to Provincial Governments to extend the exclusion of children under 12 from workshops to other industries.

The Government of India mentions the class of workshops<sup>1</sup> to which the Act should, at the first instance, be applicable and proposes to grant power to Provincial Governments to extend it to include other industries.<sup>2</sup> The proposed legislation may provide for checking the age of children and an obligation of notification upon the occupier of a factory, and the inspection requiring only the exclusion of children under the age of 12 will be of a simple nature and may be carried out by part-time officers.

## 5. PROVINCIAL FACTORY REGULATION

Recently there has grown a tendency among the Provinces to regulate labour conditions in small power factories and workshops. Two private Bills, for instance, were introduced into the Madras Legislative Council, namely, the Artisan Bill and the *Bidi* (cigarette) Factories Bill. The latter was, in fact,

<sup>1</sup> *Bidi* making, carpet weaving, cement manufacture, printing and dyeing, manufacture of matches, explosives and fireworks, mica splitting, shellac manufacture, soap manufacture, tanning and wool cleaning are listed as objectionable industries.

<sup>2</sup> Government of India, Department of Industries and Labour, No. L. 3060, dated Simla, the 11th October, 1937.

introduced into the Council on the 13th November, 1933.<sup>1</sup> The object of these Bills was to regulate the employment of labour in handicraft workshops (in which gold, silver and other metals, as well as wood, stone and ivory were worked), and also *bidi* (cigarette) factories, which employed more than 10 persons. The provisions regarding the employment of women and children, as well as health and safety and hours of work, were based upon the Indian Factories Act except for the fact that the maximum age for employment of children was raised to 16. Moreover it was provided that no kind of corporal punishment should be inflicted on any child for any kind of dereliction of duty, including absence from work without leave, and no woman should be employed in a factory unless three women were simultaneously employed therein.

*Central Provinces Unregulated Factories Act, 1937*

The most important step in provincial labour legislation has been taken by the Central Provinces. The Government framed a Bill to regulate unregulated factories in the provinces in 1936 and circulated it for public opinion. After some modifications by the Select Committee, the Bill was passed by the Legislative Assembly in November, 1936,

<sup>1</sup> Cf. Government of Madras Bills Nos. 32 and 36 of 1933—*Labour Gazette*, the 30th March, 1933, p. 516.

and the Act came to be known as the Central Provinces Unregulated Factories Act (XXI) of 1937 and was brought into operation on 31st March, 1937.<sup>1</sup>

The chief provisions of the Act, which have been based upon those of the Indian Factory Act of 1934 with necessary modifications,<sup>2</sup> are as follows :—

(1) The main object of the Act is “to regulate the labour of women and children and to make provisions for the welfare of labour” in an “unregulated factory,” which is defined to be “any place wherein 50 or more workers are employed or were employed on any one day of the preceding 12 months and to which the Factories Act, 1934, does not apply and wherein the following industries are carried on (i) *bidi*-making, (ii) shellac manufacture, and (iii) leather tanning.” The Local Government has been granted power to declare, by notification in the local official gazette, an undertaking, working not more than 180 working days in the year and only during particular season, to be an unregulated seasonal factory and also to extend the scope of the Act to include any other industry or workshop employing 25 persons or more.

<sup>1</sup> *Bulletins of Indian Industries and Labour*, No. 61,—*Indian Labour Legislation, 1932-37*, Delhi, 1937, p. 51.

<sup>2</sup> *Central Provinces Gazette*, 12th February, 1937. Part III, pp. 273-81.



(2) A child is defined to be "a person who has not completed his 14th year," and the minimum age to employment is ten. No child can be employed without a certificate of fitness granted to him by duly appointed certifying surgeon, which must be in the custody of the manager of the factory, and without carrying, while at work, a token giving reference to such certificate. He may be re-examined by certifying surgeon and his certificate may be revoked if he is no longer fit for his employment. The hours of work for a child is seven a day and within the period between 8 a.m. and 12, and between 1 p.m. and 5 p.m. No child shall be allowed to work overtime or to take work home. The work of women is restricted to 9 hours a day and between sunrise and sunset

(3) Provisions have also been made for health and safety. Every unregulated factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, shall have prescribed standards of ventilation, floor and cubic space, sufficient lighting during working hours, standard latrine and urinal accommodation, and safety provisions against any danger. The hours of work for adult workers should be restricted to ten a day and they must have interim rest for at least an hour after every five hours' work and also a holiday of one whole day after six consecutive days' work.

(4) The Local Government may make regulations, after due notification, for the purpose of

carrying into effect the provisions of this Act in respect of inspection, duties of certifying surgeons and the form of certificate, standard methods of ventilation, floor and cubic space, standard of lighting and water supply and the form of registration and notification. Any factory working under this Act shall maintain in prescribed form a register showing the names of all workers in such a factory, their hours of work and the nature of their respective employments except under special circumstances, and shall display the prescribed abstracts of this Act and also of the rules made thereunder in English and in prescribed vernacular languages. The Local Government may, by due notification, appoint such officers as it thinks fit to be inspectors for the purpose of the Act within such local limits for which he is appointed and exercise such powers as may be necessary for carrying out the purposes of the Act.

(5) The occupier or the manager of a factory shall each be punishable with a fine extending to Rs. 200 for employing workers in contravention of any provisions of the Act. But no prosecution under this Act shall be instituted except by or with the previous sanction of the district magistrate or such other officer as the Local Government may appoint in his behalf, and no court inferior to that of a magistrate of the second class shall try any offence against the Act or any rule made thereunder.

*Factories (Orissa Amendment) Bill, 1938*

A non-official Bill, called the Factories (Orissa Amendment) Bill, was introduced in the Orissa Legislative Assembly on 28th January, 1938, with a view to amending the Indian Factories Act, 1934, in its application to the province of Orissa. The main provisions of the Bill<sup>1</sup> are as follows: (1) extension of the Indian Factories Act to (a) workshops or factories working without the use of power, and (b) factories using power, but employing 15 persons or more instead of 20 persons or more, as provided by the Indian Factories Act; (2) a reduction of hours of work to 40 a week in perennial factories and 48 a week in seasonal factories; and (3) the granting of power of inspection to local and health officers. A motion was made on 8th March, 1938, for the circulation of the Bill.<sup>2</sup>

*Orissa Unregulated Factories Bill, 1938*

A non-official Bill,<sup>3</sup> called the Orissa Unregulated Factories Bill, was also introduced in the Orissa Legislative Assembly on 28th January, 1938, with a view to regulating the employment of women and children and to providing welfare in factories to which the Indian Factories Act, 1934, did not

<sup>1</sup> *Orissa Gazette*, 4th February, 1938, Part XI, pp. 28-38.

<sup>2</sup> *Amrita Bazar Patrika*, 9th March, 1938.

<sup>3</sup> *Orissa Gazette*, 4th February, 1938, Part XI, pp. 32-50.

apply. The Bill is based on the recommendation of the Royal Commission on Labour and on the provisions of the Central Provinces Unregulated Factories Act of 1937. The importance of the Act lies in the fact that by far the majority of the factories in Orissa do not use power machinery and employ less than 20 persons.

## 6. PROVINCIAL SHOP REGULATION

Another important series of legislative measures proposed for some provinces is the regulation of labour conditions in shops. The question of shop regulation has recently been brought before the public by the organisations of shop assistants in several provinces.

### *Bombay Shops Bill, 1938*

The first attempt to regulate shop work was made in Bombay. A private Bill, called the Bombay Shops Bill, was introduced into the Bombay Legislative Council on 11th September, 1934. It was largely modelled on the lines of the Shops Legislation in Great Britain as enacted in 1886 and amended in 1912, 1913 and 1928, with a view to regulating conditions of employment of shop assistants. It prohibited, *inter alia*, the employment of children under 12 years of age, restricted the hours of work of young persons

under 18 to 70 a week, provided a weekly holiday for all shop assistants, and put a limit to the time of work at night <sup>1</sup> The Bill was, however, rejected by the Legislative Council.

The proposal for shop regulation has, however, been revived. The Government of Bombay has announced its intention of proceeding with the shop regulation, and circulated for opinion, a draft Bill, called the Bombay Shops Bill, to regulate the hours of work of shop assistants and commercial employees, and for certain other purposes. The principal provisions of the Bill are as follows <sup>2</sup> :—

(1) The scope of the Bill is applied in the first instance to Bombay, Ahmedabad, Poona and Sholapur, but may, by notification, be extended to include other localities. For the purposes of the Act, shops include all commercial establishments, hotels, restaurants, eating houses, theatres, cinemas and similar other places of entertainment. The Bill does not cover persons employed as domestic servants, caretakers, watchmen or supervisory staffs.

(2) Hours of work are limited to 9 a day in shops, hotels, restaurants and other similar undertakings, and to 9 a day and 54 a week in commercial establishments exclusive of intervals for rest and meals, which must be at least one hour a day. The daily spread-over of hours may not

<sup>1</sup> *Labour Gazette*, October, 1936, pp. 148-49.

<sup>2</sup> *Labour Gazette*, March, 1938, pp. 525-28.

exceed 12 hours or 14 hours, if the establishment is entirely closed for a period of not less than three hours between 7 a.m. and 9 p.m. Exemptions from hours provisions may be granted during the week before Christmas, *Dewali*, or other prescribed days in the case of shops, during the period of preparation of periodical accounts or balance sheets up to the limit of 15 days in the year in the case of commercial establishments and on prescribed days in the case of hotels, etc. Holidays with pay are also fixed at four a month or 52 a year, and provisions are also made for the stopping of work on notified holidays. The Government is granted power to fix closing hours of the shops after due enquiries.

(3) The minimum age for the employment of children and young persons, is fixed at 12 years, and hours of work for children between 12 and 15 years are limited to 6 a day and for young persons between 15 and 17 at 8 a day. The night work of children under 15 is prohibited.

(4) The Bill provides for the enforcement of the law by local authorities subject to the supervision by the Provincial Government, as well as for maintaining prescribed records, appointment of inspectors, and penalties for contravention.

### *Bengal Shop Hours and Shop Assistants' Bill, 1938*

In the mean time, a non-official Shop Hours and Shop Assistants' Bill was introduced into the Bengal Legislative Council on 27th January, 1938,

for providing minimum age, shorter hours, minimum wage, period of payment, leave facilities, and compensation for accidents.<sup>1</sup> Following the introduction of the Bill, the Minister of Commerce and Labour announced that the Government of Bengal had under consideration a draft measure, called the Bengal Regulation of Shops Bill, to regulate the conditions of work of all employees in shops, with special reference to hours, wages and compensation for accidents, which would be proceeded with in the next session of the Legislative Assembly. In the mean time, the Government of Bengal has invited interested parties to submit their views on the draft Bill.<sup>2</sup>

### *United Provinces Shops Bill, 1938*

A non-official Bill was also introduced into the United Provinces Legislative Assembly on 5th April, 1938. The main provisions of the Bill are as follows<sup>3</sup>: (1) no child under 14 years of age shall be employed in a shop; (2) the hours of work, including intervals of rest, or meals shall be limited to 9 a day; (3) a weekly holiday of rest should be observed by all shops unless otherwise authorised; (4) shops are to be closed on all public holidays and employees should be paid on all such occasions; (5) wages shall be paid fortnightly and

<sup>1</sup> The Bengal Shop Hours and Shop Assistants Bill, 1938.

<sup>2</sup> *Statesman*, 28th February, 1938.

<sup>3</sup> *United Provinces Gazette*, 9th April, 1938, Part VII, pp. 44-45.

within a week after they had been due; (6) no employee shall be discharged without a month's notice. The Bill was received sympathetically by the Government and was circulated until 30th June, 1938, for eliciting public opinion thereon.<sup>1</sup>

## 7. ADMINISTRATION OF THE LAW

Until the enactment of the Government of India Act, 1935, providing for the new Constitution, the first part of which inaugurating provincial autonomy was brought into operation on 1st April, 1937, the supreme authority in respect of factory legislation was the Government of India, although Provincial Governments could, with the sanction of the Central Government, also pass legislative measures of a local character. The Act of 1935 has granted to the provinces concurrent power for legislation in respect of factories. But the present Act of 1934 was passed by the Government of India, although the administration of the law has been left to the Local Governments.

### *Rules and Regulations*

The Act as passed by the Central Government is general, uniform and applicable to the whole of British India. both the Government of India and Local Governments were granted powers to make rules or regulations for administrative purposes. In any case of public emergency, for instance, the

<sup>1</sup> *The Hindustan Times*, 6th April, 1938.



Governor-General in Council might. by notification in the *Gazette of India*, exempt any factory from any or all of the provisions of the Act for such a period as he might think fit. Where the Governor-General in Council was satisfied that any work in a factory exposed any person employed upon it to a serious risk of bodily injury, poisoning or disease, he might make rules applicable to any factory or class of factories in which this operation was carried on and specify the conditions under which women, adolescents and children might be employed.

With the establishment of provincial autonomy on 1st April, 1937, the power of the Central Government has been transferred to Provincial Governments. The administration of the law has, however, from the very beginning been the concern of the Local Government which has been granted widest powers for both the making of rules and the application of the law. For instance, the Local Government may, by order in writing, declare a branch of a factory to be a separate factory and, by notification in the local official gazette, extend the scope of the Act to include any unregulated factory, and even exempt a factory from the operation of the Act. Moreover, the Local Government has the power of making rules regarding the exemption of certain classes of workers from the provisions in respect of hours of work and prescribing the physical standards to be attained

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by children and adolescents for admission to employment, the standards of health and safety measures in factories, adequate disinfection of wool to be used in a factory and suspected of being infected with anthrax pores, and the form of registration, return and notice in respect of various provisions of the Act.

### *Inspection and Supervision*

The most important part of the administration of the law is however the inspection and supervision which is directly concerned with the observance by factories of the provisions of the Act. The inspectors under the Factories Act may be classified under 4 different headings: (1) Inspectors who are appointed by the Provincial Government after notification in the local official gazette for the purposes of the Act and within such local areas as may be assigned to them, including a chief inspector who may exercise such power for the whole province, (2) certifying surgeons who are also appointed by the provincial Government from the registered medical practitioners within such areas as may be assigned to them, (3) district magistrates who are inspectors of factories within their respective districts, and (4) other public officers who may be appointed by the Provincial Government, with notification as aforesaid, for all or any purposes of the Act and within such areas as may be assigned to them.

To this may also be added medical inspectors and women inspectors who have already been appointed by some provinces. Every inspector is a public servant within the meaning of the Indian Penal Code (Act XLV) of 1860 and is empowered to make such examination and enquiry in a factory as he thinks fit in order to ascertain the observance of the law.

There was scarcely any provision for inspection when factory legislation was first enacted, but in recent years factory inspection has made great progress, and at present most of the provinces have an adequate inspectorate, consisting of the chief inspector, several inspectors and assistant inspectors and other officials who act as *ex-officio* inspectors. *Ex-officio* inspectors, the most important of whom are Commissioners of Police, Magistrates and Deputy Magistrates and District Medical and Health Officers,<sup>1</sup> still play an important part in factory inspection, especially in the case of seasonal factories. Some of the provinces also utilise the services of medical inspectors. The Government of Bombay appointed a lady inspector as far back as 1924, and the Government of Bengal has appointed a full-time certifying surgeon as additional factory inspector; the appointment of medical officers as factory inspectors is under consideration by other provinces.<sup>2</sup>

<sup>1</sup> Government of Madras: *The Indian Factories Act of 1911, Administrative Report for 1924*, pp. 1, 10 and 11.

<sup>2</sup> Government of India: *The Third Report*, 1934, p. 116.

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<sup>1</sup> Government of Madras: *The Indian Factories Act of 1911, Administrative Report for 1924*, pp. 1, 10 and 11.

<sup>2</sup> Government of India: *The Third Report*, 1934, p. 116.

Moreover, in order to consolidate the activities of different departments relating to labour, the Government of Bombay appointed a Commissioner of Labour in 1933.

The growth of factory inspection is best indicated by the increase in the number of factories inspected in proportion to the total number. While in the year 1922, the year before the amending Act of 1922 came into force, only 70 per cent. of the factories were inspected, and this percentage rose to 90 in 1933, when the new Act of 1934 came into force, although it declined again to 86 in 1936. Of course, such percentages vary from year to year. It is also seen that there was an increase in the number of the factories as well as that of the factories inspected between 1922 and 1923 as a result of the coming into effect of the amending Act in the latter year.

*Factory Inspection in British India in Specified Years<sup>1</sup>*

Year	Factories actually working	Factories inspected		Average daily number of workers employed
		Number	Percentage of Total	
1922	5,142	3,623	70	1,361,001
1923	5,985	4,831	81	1,409,173
1934	8,658	7,705	89	1,487,231
1935	8,831	7,982	90	1,610,932
1936	9,323	8,060	86	1,652,147

<sup>1</sup> Compiled from *Statistics of Factories subject to the Factories Act* for the respective years. The years chosen are those when the first data became available or when an amended or new Act came into force.



Since 1929 a distinction has been made between seasonal and non-seasonal factories, and during the year 1936 out of 5,581 perennial factories 4,782 or 85·6 per cent. and out of 3,742 seasonal factories 3,278 or 87·6 per cent. were inspected. As a rule, perennial factories are generally better inspected than seasonal factories due to the fact that the latter are often located in out-of-the-way places; the proportion of perennial and seasonal factories inspected in 1935, for example, was about 93 and 83 per cent. respectively. The decrease in the number of perennial factories inspected as compared with that of seasonal factories in 1936 is mainly due to the rapid increase in the number of the former and the decrease in that of the latter. The numbers of perennial and seasonal factories were respectively 4,023 and 4,635 in 1934, 5,166 and 3,665 in 1935, and 5,581 and 3,742 in 1936.

Besides the regular inspection, inspectors also make special visits to factories for detecting the irregular employment of labourers. In spite of occasional breaches of the law, the main provisions of the Act are fairly observed, especially by perennial factories.

### *Registers and Notices*

Before work is begun in a factory or in every season in a seasonal factory, the occupier or manager sends to the inspector a written notice containing (a) the name of the factory and its

situation ; (b) the nature of manufacturing processes ; (c) nature and amount of the power to be used, and (d) name of the manager.

Every factory shall maintain in prescribed form a register of child workers showing (a) the name of each child worker in the factory, (b) the nature of his work, (c) the group, if any, in which he is included, (d) where his group works in shifts and the relay to which he is allotted, (e) the number of his certificate of fitness granted him, and (f) other prescribed particulars. Every factory shall display and correctly maintain in prescribed form a notice of the period of work for children showing clearly the periods within which children may be required to work, and no child shall be allowed to work otherwise than in accordance with the notice of the periods of work for children. Similar registration and notification are also to be maintained in the case of adult workers and no adult worker shall be allowed to work otherwise than in accordance with the notice of the periods of work, etc. Moreover, every factory shall display a notice containing the abstracts of the Act and rules made thereunder in English and in other prescribed vernaculars of the majority of the workers.

### *Infringements and Penalties*

No prosecution under this Act, except that of smoking or using naked light in the vicinity of inflammable material, shall be instituted except by

or with the previous sanction of the inspector. No court inferior to that of a presidency magistrate or magistrate of the first class shall try any offence against this Act or any rule or order made thereunder.

The penalties for the infringement of the provisions of the Act vary from a fine extending to Rs. 20 in the case of a child using a false certificate for admission to employment or the parent or guardian of the child knowingly allowing a child to work in two factories on the same day to a sum extending Rs. 500 in the case of a manager or an occupier of a factory contravening any provisions of the Act, but the manager and occupier of a factory should not be separately fined for the same offence. Moreover, the Act of 1934 provide an enhanced penalty in certain cases after the previous conviction, which may extend to Rs. 750 for the second offence for the infringement of the same provision, and Rs. 1,000 for the third and subsequent infringements.

Some idea of the enforcement of the law may be had from the prosecutions of violators of the law and the penalties inflicted during recent years. Full details regarding convictions have been made available since 1924, when the number of convictions was 625 ; this figure was 940 in 1936, including 382 in seasonal and 558 in perennial factories. These figures vary from year to year and from province to province due partly to the system of

working the factories, e.g., the shift system or work by relays is more complicated and offers a greater possibility of infringement, and partly to the strictness or tolerance on the part of individual inspectors, some of them taking greater pains than others to obtain compliance with the law by persuasion, warning and instruction.<sup>1</sup>

<sup>1</sup> The total number of convictions was 1,463 in 1934. But these figures are not really comparable. Hitherto separate cases were made out for each worker involved in a single breach of the factory law but since 1933 a single breach involving many workers is only counted as one case. Cf. *Statistics of Factories subject to Indian Factories Act for the respective years*.

## CHAPTER III

### MINING LEGISLATION

The next important class of labour legislation relates to the mining industry. The mining industry, including quarries, has made considerable progress in recent years, as indicated by the increase in the paid-up capital of the Joint Stock Companies from Rs. 1·92 crores in 1895-96 to Rs. 39·52 crores in 1935-36 in the case of the companies registered and at work in British India, and from £6·26 millions in 1922 to £24·24 millions in 1935-36<sup>1</sup> in the case of the companies registresed abroad but at work in British India. The increase in the value of minerals produced is also an indication of the growing importance of the mining industry. The total value of the minerals extracted rose from Rs. 3·75 crores in 1911 to Rs. 14·96 crores in 1924, but declined to Rs. 6·52 crores in 1935. The price of the minerals is evidently influenced both by the amount produced and the industrial conditions of the world.<sup>2</sup>

The number of workers in the mining industry is rather small, but the importance of mining in

<sup>1</sup> *Statistical Abstract for British India*, 1923, Table No. 272; 1938, Tables Nos. 176 and 180.

<sup>2</sup> Reference to the whole of India, *Statistical Abstracts for British India* for the years indicated.

modern industrial organisation, as well as the technical nature of the risk often involved in its operation, makes mining legislation an important social institution. The total number of mines in British India and working under the Mines Act rose from 542, employing a daily average number of 104,660 workers, in 1901 to 1,973, employing a daily average number of 269,593 workers, in 1936.<sup>1</sup>

There is, however, a great variation from year to year, both in the number of mines and the workers employed therein. Moreover, there was some depression in the mining industry, the average daily number of workers declining from 269,707 in 1929 to 204,658 in 1932. Since 1933 there has been, however, a great improvement in the development of the mining industry.

### 1. INDIAN MINES ACT, 1901

Modern mining was introduced into India early in the nineteenth century; the coal production amounted to 220,000 tons by 1858<sup>2</sup> and to about 1·7 million tons by 1890,<sup>3</sup> but the necessity of regulating employment of labour was not realised by the Government until the nineties.

<sup>1</sup> *Annual Report of the Chief Inspector of Mines in India for the respective years.*

<sup>2</sup> *Census of India, 1911, Vol. I, Part I, p. 416.*

<sup>3</sup> The average annual production for the five years 1886-1890 was 1,67,400 tons in British India. *Statistics of British India, 1922, Vol. I, p. 191*

The absence of foreign competition and the nature of the mines, which were mostly near the surface, were partly responsible for tardiness in undertaking mining legislation, but the increasing employment of labourers, especially of children and women, in an industry which was especially subject to insanitary conditions and accidents, led to the appointment of a mining inspector in 1893. A Mining Committee was also appointed in 1895 for drafting rules. On the basis of its report, a Bill was prepared in 1899 and passed into law in 1901. The act came into force on 22nd March of the same year.<sup>1</sup>

The chief provisions of the Act were the following : (1) any excavation 20 feet below the surface where minerals were searched for or obtained was to be regarded as a mine ; (2) powers were granted to the Government of India for the appointment of a Chief Inspector of Mines and to the Local Governments for the appointment of inspectors and subordinate officers ; (3) a child was defined to be a person under the age of twelve and the Chief Inspector was granted power to prohibit the employment of children and women in mines where the conditions, in his opinion, were dangerous to their health and safety ; (4) provisions were also made for the appointment of local mining boards and committees to enquire

<sup>1</sup> Indian Mines Act (VIII) of 1901 ; *Report of the C. S. J. Inq.*  
*Mining in India, 1901*, p. 43.

of work Without such limitation, underground work might be continued for as long as 17 or 18 hours a day,<sup>1</sup> although such cases were not common Moreover, the supervision of work without statutory limitation of hours was a difficult task A proposal for limiting the daily hours of work by law was in fact made in the Legislative Assembly, when the Indian Mines Act of 1923 was under consideration The Coal Committee, which had investigated the possibility of introducing a compulsory shift system for the automatic restriction of daily hours, did not think that the time was opportune for such a measure at that time<sup>2</sup> On the assurance that the Government would consider the matter in consultation with the Local Governments, the Assembly rejected the proposal for the limitation of daily hours of work. In accordance with the promise and on the receipt of several replies from the Local Governments, the Government of India introduced an amending Bill in 1927 which was passed in 1928,<sup>3</sup> as Indian Mines (Amendment) Act (XIII) of that year

This amendment made unlawful the employment of any person in mines for more than 12 hours in any period of consecutive 24 hours. It also provided that all mines working more than

<sup>1</sup> *Legislative Assembly Debates* 8th April 1935 p. 353

<sup>2</sup> A. C. Clow *The State and Industry* p. 156

<sup>3</sup> *Legislative Assembly Debates* 1928 pp. 271-272; *Labour Gazette* Bombay, 19-27, pp. 122-23, 1927-28 pp. 876-79



12 hours a day should have the shift system, that there should not be any overlapping of shifts, and that a register of workers and their hours of work should be maintained in all mines. Some sections of the Act came into force immediately, while others were put into operation on 7th April, 1930, so that mine-owners might have time for the necessary adjustment.<sup>1</sup> The Act was again amended in 1931 for some minor purposes.<sup>2</sup>

### 3. PROHIBITION OF WOMEN'S UNDERGROUND WORK, 1929

An important question raised at the time of passing the Act of 1923 was the exclusion of women from underground employment in mines. Although the proposal was rejected, provision was made granting power to the Governor-General in Council to make regulations for prohibiting, restricting or regulating the underground employment of women in mines. The Government of India, in consultation with the Local Governments and mining associations, promulgated regulations under Section 29 of the Indian Mines Act of 1923, by which the employment of women underground was prohibited from 1st July, 1929, in all mines,

<sup>1</sup> Indian Mines Act (XIII) of 1928.

<sup>2</sup> Cf. *Labour Gazette*, Bombay, October 1931, p. 137.

<sup>3</sup> *Gazette of India*, 9th March, 1929, Part I, p. 335; *Indian Trade Journal*, 14th March, 1929, p. 584.

except in coal mines in Bengal, Bihar and Orissa and the Central Provinces and salt mines in the Punjab. In the case of such mines the regulations provided for a gradual percentage reduction each year in the number of women employed underground so as to lead to their total elimination by 1st July, 1939. After the adoption by the International Labour Conference of the Underground Work (Women) Convention in 1935 (No. 45), the Government of India revised the Regulation of 1929 and prohibited the employment of women in underground work in all mines from 1st July, 1937.<sup>1</sup> But owing to the shortage of labour and at the representation of mine owners the Government of India postponed the enforcement of the revised regulation for three months, i.e., until 1st October, 1937, in all coal mines in Bihar and Bengal, the Central Provinces and Orissa. Of a daily average number of 42,635 women employed in mines in 1936, 7,301 were employed underground and all of them except 32 (in salt mines of the Punjab) were employed in coal mines. The percentage of women employed underground was 6.87 in 1936 as compared with 18.39 in 1930.

<sup>1</sup> Government of India, Notification No. XI 1033, dated 17th January 1937. *Indian Trade Journal* 24th June 1937 p. 1352.

<sup>2</sup> *Annual Report of the Chief Inspector of Mines in India, for 1936*, p. 2.

## 4. INDIAN MINES (AMENDMENT) ACT, 1935

In the mean time, the Government of India took further steps to amend the Indian Mines Act. The provision limiting the hours of work to twelve a day was criticised even before the passage of the Amending Act of 1928. The majority of the Select Committee on the Bill agreed to the desirability of advancing towards an 8-hour day, but adhered to the 12-hour shift, as the main object of the Bill at the time was to enforce some form of regularity rather than to put any actual limit to the hours of work, which was achieved by the limitation of weekly hours. They recommended to the Government, however, that after the Act had been in force for three years the situation should be examined in order to see whether an 8-hour shift could then be introduced.<sup>1</sup>

The question of shorter hours in mines was again considered by the Royal Commission on Labour in 1931. It was shown by the minority that some of the larger collieries had already been working 8-hour shifts, and other collieries 10-hour shifts, and in all these collieries the attendance and wage level seemed to be higher, and, moreover, in no country except in India was a 12-hour shift permissible, although weekly limits in two countries

<sup>1</sup> Government of India: *Bulletin of Indian Industries and No. 49; Reduction of Hours of Work in Mines*, pp. 1-26.

were higher. The majority of the Commission did not think that the time was opportune to adopt an 8-hour shift, but recommended the reduction of the hours worked on the surface to 54 a week and the re-examination of underground employment after the Act has been in operation for three years, and suggested at the same time that the employers should experiment with 10, 9 and 8-hour shifts during the period before the Act is reconsidered. The Commission also recommended the raising of the minimum age of employment for children from 13 to 14.<sup>1</sup>

In 1931, the International Labour Conference, at its Fifteenth Session, adopted a Draft Convention limiting hours of work in coal mines to 7½ a day for underground work and 8-hours a day and 48 hours a week for surface work.<sup>2</sup> This Draft Convention was taken into consideration by both Chambers of the Indian Legislature in 1932, which passed resolutions recommending the Governor-General in Council to examine the possibility of reducing the statutory limitations for hours of work in mines and to place the results of this examination before them.<sup>3</sup> In accordance with these resolutions, the Government of India addressed, on 21st September, 1932, a circular letter

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 126

<sup>2</sup> *Draft Conventions and Recommendations, Draft Convention 31*

<sup>3</sup> *Legislative Assembly Debates*, 24th February, 1932, Council of State Debates 2nd March, 1932.

to Local Governments and Administrations for their opinion, suggesting at the same time that 9 hours was as low a daily limit as could possibly be adopted at present, and also agreeing provisionally to the following recommendations of the Royal Commission on Labour, namely : (a) that no child under 14 years of age should be permitted to work in or about mines ; (b) that minor accidents involving enforced absence in excess of the working period under the Workmen's Compensation Act should be reported weekly to the Chief Inspector through the District Magistrate ; and (c) that it should be obligatory for Local Governments to publish reports of the Committees and Courts of Enquiry appointed by them under the Act to enquire into accidents.<sup>1</sup>

In the light of the opinions and criticisms of the Local Governments and other interested parties, the Government of India framed a new Bill further to amend the Indian Mines Act, 1923, for a threefold object, *viz.*, (1) to reduce the hours of work, (2) to raise the minimum age of children for employment, and (3) to provide better representation for workers in Mining Boards. The Bill was passed in April, 1935, and the new Act came into force on 1st October, 1935. The main provisions of the Act <sup>2</sup> are as follows :—

<sup>1</sup> *Labour Gazette*, January, 1933, p. 366.

<sup>2</sup> *Gazette of India*, 27th April, 1935, Part IV, pp. 8-10.

(1) The hours of work above ground are reduced from 60 a week and 12 a day, to 54 a week and 10 a day. The period of spread-over for work above ground is limited to 12 hours a day including at least one hour's rest for 6 hours' work. The weekly hours of work below ground are the same as before, that is, 54 hours, but daily hours have been reduced from 12 to 9. Moreover, the 9 hours are to be counted from the moment the man leaves the surface until the moment when he returns to the surface. Excluding the journey to and from the working face, the actual hours underground are not likely to exceed 8 in most of the mines. There will be a weekly holiday as before, and provision has also been made by the amending Act for an interval of rest of at least one hour after six hours' work for all workers above ground.

(2) The minimum age for admission of children to employment in mines has been raised from 13 to 15 and, as in the case of factories, children between 15 and 17 can be employed underground only when they have been duly certified by qualified medical practitioners to be physically fit for the work. The certificate of fitness should be in the custody of the manager of the mine and the certified person must carry a token of such certificate while at work.

(3) Under the Act of 1923, miners were allowed to have one representative on the Mining Board,

who was nominated by the Local Government, while the mine-owners had two representatives. The Amendment provides that the miners should have the same number of representatives as the mine-owners, namely, two, and that in so far as they are organised, these representatives should be elected.

(4) Among other important provisions must be mentioned the following: (a) a record of accidents incapacitating persons for 24 hours or more should be entered in the prescribed register and copies of the entry should be submitted to the Chief Inspector of Mines twice a year; and (b) Local Governments should publish the reports of the courts of enquiry into accidents. The question of further reduction of hours of work, especially those of underground workers, was pressed in the Assembly and an undertaking was given by the Government that after three years the whole question would be re-examined with a view to ascertaining whether they could not be further reduced.

### *Indian Mines (Amendment) Act, 1936*

The Indian Mines Act, 1923, was again amended in 1936 for the purpose of securing greater safety and especially providing more adequate safeguards against fire in mines. Following fires at collieries in 1935 and 1936 causing loss of life, the Government of India decided, in co .

with Local Governments, mining interests and technical experts, to appoint an expert committee to investigate the whole question of safety in mines,<sup>1</sup> and at the same time a temporary measure by legislative action. An amending Act was passed in April, 1936,<sup>2</sup> and immediately promulgated for general information. By this amendment the power already invested in the inspectorate was enlarged to include the issue of orders to individual mines to take precaution against the premature collapse of any part of a mine and the danger of consequent outbreak of fire; and the Governor-General in Council was granted additional power to make regulations against apprehended danger more speedily than was possible under the existing provisions, which required previous publication and reference to Mining Boards. Moreover, the Governor-General in Council was granted power to make regulations, by notification in the *Gazette of India*, requiring groups of specified mines, or all the mines in a specified area to establish central rescue stations under prescribed conditions, and providing for the formation, training and duties of rescue brigades.<sup>3</sup> The new powers were to remain in force only for two years in both cases.

<sup>1</sup> The fires referred to are those of Bagdadi Colliery on 29th June, 1935 and Loyabad Colliery (Jharia) on 30th January, 1936, causing the loss of 19 and 37 lives respectively.

<sup>2</sup> *Legislative Assembly Debates*, 3rd and 21st April, 1936; *Council of State Debates*, 24th April, 1936.

<sup>3</sup> *Gazette of India*, 2nd May, 1936, Part IV.



*Indian Mines (Amendments) Act, 1937*

As announced before, the Government of India appointed on 29th October, 1936, a Coal Committee to enquire into the method of extracting coal and to report on the measure which should be taken (i) to prevent avoidable wastage of coal, and (ii) to secure the safety of the workers employed, with special reference to the danger arising from underground fires and the collapse of workings and the suitability of the explosives in use and of the method of using and storing them. The Committee made its report on 10th April, 1937.<sup>1</sup>

The Indian Mines Act of 1923 was again amended in December, 1937,<sup>2</sup> with a view to giving effect to some of the recommendations of the Coal Committee and to making permanent the provisions of the amending Act of 1936, which was rather a temporary measure, and also to bringing about some changes which were found necessary in the light of the new experiences. As in the case of the former amendment, the object of this new amendment was to provide further safety to those who work underground in mines. The

<sup>1</sup> *Report of the Coal Mining Committee*, Delhi, 1937, p. 346.

<sup>2</sup> Indian Mines (Amendment) Act (XXIX) of 1937. The Bill was introduced into the Legislative Assembly on 27th August and passed on 5th October, 1937. It was assented to by the Governor-General on 3rd December, 1937.

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provisions of the amending Bill were based upon recommendations of the Coal Mining Committee specially appointed for the purpose and consisted of the following: (1) to make permanent the powers granted by the amending Act of 1936 to the inspectorate to control the extracting of coal from the pillars and to limit the dimension of the working galleries in collieries; (2) to grant liberty to inspectors to divulge knowledge of the conditions in one mine, which may threaten the safety of the workers employed in a neighbouring mine; and (3) to remove defects noticed in drafting of the rules and to make provisions for the control and financing of rescue stations in Jharia and Raniganj stations. They were slightly modified in the legislature, when finally passed.

The amending Act of 1937 granted powers to the Governor-General to make "regulations," but as the power to make regulations required the previous sanction of the Mining Board and the necessary delay, which was the very thing the amending Act wanted to avoid, the word "regulations" was replaced by the word "rules."

Some of the rules were revised, such as (1) the constitution and management of rescue stations which would include representatives of owners, managers and workers, e.g., two for each group beside one member of the inspectorate; and (2) the levy and collection of a duty of excise (at a rate not exceeding 6 pies per ton) on coke and

coal produced and despatched from specified mines, and the utilisation and administration thereof.<sup>1</sup>

## 5. HEALTH AND WELFARE MEASURES

One of the important provisions of the Mines Act is the establishment of Boards of Health to look after the sanitation of local mining areas. This provision was further strengthened by the Bengal Mining Settlements Act of 1912 and the Bihar and Orissa Mining Settlements Act of 1920. The main object of these Acts was to make provision for sanitary arrangement and housing accommodation in mining areas.<sup>2</sup>

The question of sanitation in mining areas came also under the consideration of the Royal Commission on Labour. The Commission recommended that the Jharia and Asansol Boards of Health and Welfare should each be enlarged so as to give increased representation to employers and to include representatives of the workers chosen, where possible, in consultation with their organisations, and at least one woman member. Grants might be given to Boards of Health and Welfare for their proved activities in relation to health, welfare and education. A resident medical officer with public

<sup>1</sup> *Gazette of India*, Part V, 4th September, 1937; Part IV, 11th December, 1937. *Legislative Assembly Debates*, 30th September—5th October, 1937.

<sup>2</sup> Bengal Mining Settlements Act (II) of 1912, Calcutta 30th March, 1912, Extraordinary.

Since these bye-laws relate mostly to larger mines, their scope is generally limited to coal and manganese mines. In 1915, 385 coal mines and 21 manganese mines had such by-laws<sup>1</sup> and by 1936 the number of such by laws amounted to 606 in coal mines and to 20 in other mines. In 409 coal mines the by laws have recently been amended and bye laws for the treatment of coal dust have been established in 39 coal mines<sup>2</sup>.

### *Inspection and Supervision*

The most important parts of the administration of the law are inspection and supervision, which are carried on by several agencies such as (1) the inspectorate, (2) mines boards, (3) committees, and (4) courts of enquiry. The power of inspecting mines in British India is vested in the Chief Inspector of Mines who, together with subordinates, is appointed by the Governor General in Council. The Act also provides that the district magistrate may exercise the powers, and perform some of the duties of the inspector, subject to the general and special orders of the Local Government. The Chief Inspector and every other inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and is empowered to make such examination and enquiry in a mine as

<sup>1</sup> *Annual Report of the Chief Inspector of Mines in India 1915*

p 16

<sup>2</sup> *Ibid* 1936, p 44

he thinks fit in order to ascertain the observance of the law.

The inspection of mines began as early as 1902, when the Bureau of Mines Inspectors was founded with a Chief Inspector and two inspectors. Since then there has been much progress both in the number of mine inspectors and the system of inspection. In 1936 there was one Chief Inspector, three inspectors, one electrical inspector, four junior inspectors, and two assistant inspectors. Following the recommendation of the Royal Commission on Labour, two posts of assistant inspectors have recently been created; moreover, with a view to securing expert inspection relating to the health of employees in mines, provincial and district medical and public health officers, whose jurisdiction covers mining areas, have been appointed as inspectors of mines.<sup>1</sup>

The number of mines inspected varies from year to year, as shown below. It is seen that from a little over one half to about two-thirds of the mines are annually inspected, and although a large proportion of the mines still remain uninspected, the total number of inspections has greatly increased, indicating that increasingly greater attention is being paid by inspectors to the mines needing inspection.

<sup>1</sup> Government of India: Department of Industries,  
Notification, M-1265, 20th April, 1933.

Mining Inspection in British  
Years <sup>1</sup>

	Mines working under Mines Act.	Mines inspected.		Total No of inspections	Average daily No of workers employed
		Number.	Per cent of total.		
				249	104 660
				1,938	753 657
				3 315	253 970
				3,378	269,593
1902	528	211	39		
1925 <sup>2</sup>	2,011	928	46		
1935	1,813	1,172	64		
1936	1,973	1,071	54		

The efficiency of inspection depends more upon its thoroughness than upon the number of mines inspected. Several accidents and important events and important causes of nearly all the fatal accidents are investigated. serious accidents, as well as breaches of regulations and rules are investigated. Inspections are also undertaken at the invitation of the mines which are dangerous of obtaining advice on safety matters. Moreover, inspectors are often called upon to investigate the causes of actual or threatened damage to dwelling houses or roads by reason of the underground working of coal mines, and to deal with underground fires

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<sup>1</sup> Compiled from *Annual Reports of the Chief Inspector of Mines in India* for the respective years. The year chosen are those when the first data became available or when an amended or new Act came into force.

<sup>2</sup> The Mining Act of 1923 came into force on 1st July, 1924, but it was only in 1935 that the effect of the new Act could be seen for the whole year.



and to examine protective works against the risk of inundation. In addition, a large number of inspections of the sanitary conditions at mines are made by medical officers as *ex-officio* inspectors of mines.<sup>1</sup>

The work of inspection and supervision is also supplemented by Mining Boards and committees as well as by courts of enquiry. A Mining Board or a court of enquiry has all the power of a civil court under the Code of Civil Procedure, 1908, and may exercise such power of an inspector as it thinks necessary for the purpose of its enquiry.

A Mining Board is appointed by the Local Government for the province or any part of the province or any group or class of mines in the province under the provisions of the Act. A Board has a Government officer as Chairman, the Chief Inspector or his representative, two representatives each of employers and workers as provided by the amending Act of 1935.

The functions of the Mining Board are various : (1) the examination of the drafts of the regulations by the Central Government and of the rules by the Local Government made under the Act, as to their expediency and suitability before they can be published ; (2) the examination and settlement of any disagreement between the inspector and the mine-owner as to the terms of the

<sup>1</sup> *Annual Report of the Chief Inspector of Mines in India, 1936*, p. 57.

by-laws ; and (3) the examination and settlement of any case which the inspector may bring before a court and which the court may send to the Mining Board as the proper body for investigation of the case.

Instead of to a Mining Board, a question relating to mines may be referred to a committee consisting of a chairman nominated by the Local Government, an expert nominated by the chairman, and one other representative each of mine managers and workers. In the case of an accident, the Local Government may appoint a competent person to be a court of enquiry and may also appoint experts as assessors to assist such court. It is obligatory on the part of the court to permit the relatives of employees and trade union representatives to appear and examine the witness in an enquiry into fatal accidents. The court shall make a report of its findings to the Local Government, the publication of which has been made obligatory by the Act of 1935.

### *Registers and Notices*

Every mine shall keep, in the prescribed form and place, a register of all persons employed in the mine, showing in respect of each person : (a) the nature of his employment ; (b) the periods of work fixed for him ; (c) intervals for rest, if any, to which he is entitled ; (d) the days of rest to which he is entitled, and (e) where work is carried on

by a system of relays, the relay to which he belongs; and no person shall be employed except during the periods of work shown in respect of him in the register.

The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form, stating the time of the commencement and the end of work at the mine, of work for each relay if there be any, and also of the intervals for rest fixed for the persons employed above ground. No person shall be allowed to work in a mine otherwise than in accordance with the notice requirements. There shall be kept posted at or near every mine, in English and vernaculars, prescribed abstracts of the Act and of the regulations and rules made thereunder.

### *Infringements and Penalties*

The power to take action against any infringement of the law rests with the Chief Inspector, the district magistrate or an inspector authorised on his behalf by general or special order in writing by the Chief Inspector, and the power to inflict penalties rests with the presidency magistrate or magistrate of the first class. No prosecutions shall be constituted against any owner, agent or manager for any offence under this Act, except at the instance of the Chief Inspector or of the district magistrate or of an inspector authorised on behalf by general or special order in . . .

the Chief Inspector. No court inferior to that of presidency magistrate or magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

Penalties for infringement vary widely from a fine extending to Rs. 200 for negligence in submitting regular returns without reasonable excuse, and a fine extending to Rs. 500 for contravention of the provision regarding the employment or presence of persons in or about a mine to imprisonment for a term extending to three months or a fine extending to Rs. 500 or both for obstructing inspection, falsification of reports, etc., and failure to give notice of fatal accidents, or to a fine extending to Rs. 1,000, and in case of continuing contravention, with a further fine extending to Rs. 100 every day from the date of the first conviction for the contravention of the Act or of any regulations, rules or bye-laws or any orders thereunder. Moreover, the contravention of an Act or of any regulations, rules, bye-laws or orders made thereunder shall be punishable with imprisonment for a term extending to one year or with a fine extending to Rs. 2,000, or with both in the case of loss of life; with imprisonment for a term extending to six months or with a fine extending to Rs. 1,000, or with both in the case of serious

accidents, and with imprisonment for a term extending to one month or with a fine extending to Rs. 500, or with both in the case of any injury or danger to the workers. Where a person having been convicted under this section is again convicted thereunder, he shall be punished with double the punishment provided above.

The Indian Mines Act was passed in 1901, but it was not until 1905 that two prosecutions involving three persons were instituted and two persons were convicted. Since then there has been an increase in both the prosecutions and convictions. In 1936, for example, the number of prosecutions amounted to 57, involving 93 persons, of whom 83 were convicted.<sup>1</sup>

<sup>1</sup> Compiled from the *Annual Report of the Chief Inspector of Mines in India*, for the respective years.

## CHAPTER IV

### TRANSPORT LEGISLATION

Of the other organised industries, the most important is the transport system, including railways, shipping, tramways, motor buses and other means of communication. There is no basis of unity among them except that of serving a common function of communication and there is, therefore, no body of laws which may properly be called transport legislation. The most important series of this legislation which have developed for these industries are those for railways, shipping and ports, to which may also be added the Bill introduced by the Central Government into the Legislative Assembly for the regulation of hours of work in motor transport. The Bill is under consideration.

#### 1. RAILWAY LABOUR LEGISLATION

The most important transport legislation in India is that for railways. The railways have developed since the middle of the last century and the number of their employees amounted to over 817,733 in 1929-30,<sup>1</sup> but no question was

<sup>1</sup> Including 4,981 Europeans, and 14,647 Anglo-Indians and domiciled Europeans. Since then there has been some decline in the number of employees due to the policy of retrenchment on the part of railway authorities as a consequence of industrial depression and rationalisation.

raised as to the regulation of their employment except for those who were employed in railway workshops and who, therefore, came under the scope of the Factories Act. The condition of railway employment had, however, been determined by the Board of Directors located in Great Britain and their agents who were resident in India and were directly responsible for the management of the railway companies, as well as by the Railway Board which was instituted by the Government of India to take charge of the State-owned railways in 1905. While these agents and Railway Board still determine the conditions of employment of privately-owned and State-owned railways respectively, the hours of work have recently been brought under legislative control.

### *Indian Railways (Amendment) Act, 1930*

In 1919 the International Labour Conference adopted the Hours Convention prescribing that the principle of a 60-hour week should be adopted, among other things, "in such branches of railway work as shall be specified for this purpose by the competent authority."<sup>1</sup> A Draft Convention relating to the weekly rest was also adopted by the International Labour Conference in 1921 providing for its application to India. These Conventions were rectified by the Government of

<sup>1</sup> *Draft Convention, No. 1, Hours of Work (Industry), Article*

India in 1921 and 1923 respectively. In 1926 an Advisory Committee was appointed by the Indian Railway Conference, to which the Government of India had referred the application of the Conventions, for devising methods to give effect to them and for arriving at some measure of uniformity. The Sub-Committee, to which the report of the Advisory Committee was submitted, found some difficulties in the way of applying these Conventions inasmuch as half of the staff depended upon mileage, trip, overtime and Sunday work allowances for their remuneration, and both the shorter hours and weekly rest often meant a reduction of wages. But in its report of 1927, the sub committee made some rules under which the Conventions could be given effect to except in the case of the running staff, and recommended their adoption within twelve months ending 30th September, 1928<sup>1</sup>. The Government of India, however, found that the principles of the Conventions could not be applied to the railways by Executive Order, and that legislation was necessary for the purpose. With a view to giving effect to the Conventions by legislative measure, a Bill was introduced into the Legislative Assembly in 1929 and, after some amendments, was passed as the Indian Railways (Amendment) Act in 1930, adding a new Chapter (VI. A) on the regulation of

<sup>1</sup> *Times of India* 12th October 1927, *Labour Gazette*, October, 1927, pp 131-33



employment of railway servants to the Indian Railways Act of 1890, with reference to the hours of work and periods of rest.<sup>1</sup>

The most important provisions of the amending Act are as follows: (1) the hours of employment shall not exceed "60 hours a week on the average in any month" in the case of all staff coming under the regulations except those whose work is essentially intermittent or involves long periods of inaction, while the hours of the latter shall not exceed "84 hours in a week." Temporary exemptions may be made in the cases of (a) accidents, emergency and urgent work, and also (b) of exceptional pressure of work subject to the payment for overtime at not less than  $1\frac{1}{4}$  times the ordinary rate of pay. (2) "A railway servant shall be granted, each week commencing on Sunday, a rest of not less than 24 consecutive hours" except when the work of such servant is essentially intermittent, or he is among certain classes of railway servants specified by the Governor-General in Council for whom periods of rest on a scale less than the above are prescribed. (3) The Government of India has been granted powers (a) to prescribe railway servants or classes of railway servants to whom these provisions shall apply and the authorities who are to declare any employment

<sup>1</sup> *Legislative Assembly Debates*, 1930, Vol. I, No. 24, pp. 1127-62; *Labour Gazette*, February, 1930, pp. 557-59.

as essentially intermittent and to grant exemptions ; and also (b) to appoint persons to be supervisors of railway labour. (4) Any person under whose authority any railway servant is employed in contravention of any provision of the Act or the rules made thereunder shall be punishable with a fine extending to Rs. 500.

### *Administration of the Law*

The administration of the railway labour legislation is the concern of the Government of India. In exercise of the powers conferred by the amending Act, the Governor-General made rules for the hours of employment and the periods of rest of railway servants called The Railway Servants' Hours of Employment Rules of 1931.<sup>1</sup> Certain subsidiary instructions were also issued under the executive authority of the Railway Board. The Act, the Rules and the Subsidiary Instructions are generally referred to as the *Hours of Employment Regulations of 1931*. They provide for the limitation of the hours of work and of grants of periodical rests to certain classes of railway servants except the following : (a) running staff, e.g., drivers, guards, shunters, firemen, brakesmen and others habitually working on running trains ; (b) watchmen, watermen, sweepers and gate-keepers, whose

<sup>1</sup> *Gazette of India*, 1st January, 1931, Part IV

employment is declared to be essentially intermittent and of a specially light character; (c) persons holding positions of supervision or management and of a confidential character; and (d) persons working under Factories and Mines Acts.<sup>1</sup> The above classes of railway servants are entitled every calendar month to at least one period of rest of not less than 48 consecutive hours or two periods of rest of not less than 24 consecutive hours each.

The application of the Act depends upon the executive power of the Government. In exercise of this power, the Governor-General in Council directed that the new provisions of the Act of 1930 should come into force in respect of the North-Western Railway and East Indian Railway on 1st April, 1931, and in respect of the Great Indian Peninsular and Eastern Bengal Railways on 1st April, 1932. In the autumn of 1935, the regulations were extended to two Company-managed lines with effect from 1st November of that year, *i.e.*, in respect of the Bombay, Baroda and Central India Railway and the Madras and Southern Mahratta Railway.<sup>2</sup> It may be noted that all State-managed railways (the Burma railways having passed from the control of the Government of India) are now complying with the provisions of the Regulations together with

<sup>1</sup> Government of India, Railway Department : *Annual Report on the Working of the Hours of Employment Regulations, 1931-32*, p. 22.

<sup>2</sup> *Ibid.*, 1936-32, p. 1.

two of the largest Company-managed railways, so that the majority of the railway employees in India are now protected by legislation.

As far as supervision and inspection are concerned, the Governor-General in Council also appointed a supervisor of railway labour with effect from 1st April, 1931. In order to assist the supervisor in carrying out his duties four inspectors of labour were appointed on 1st April, 1931, two on 1st April, 1932, and four more in 1935, thus raising the total number of inspectors to ten by 1936-37, with one junior railway inspector as a leave-reserve, their headquarters being at Multan, Lahore, Delhi, Lonagla, Lucknow, Paksey, Ratlam, Ajmer, Madras and Bangalore.<sup>1</sup> Their duties consist of carrying out detailed examinations of the hours of employment in the establishments coming under the regulations of the railways in question. Apart from inspection proper, the inspectors had been instructed to rectify violations of the Regulations on the spot where this can be done in collaboration with the local supervising officials.<sup>2</sup> A conference of inspectors from time to time is essential for securing uniform effectiveness of the law, and such a conference was held at Delhi in November, 1936.

<sup>1</sup> *Annual Report on the Working of the Hours of Employment Regulations*, Government of India Railway Department for 1936-37, pp. 1 and 3.

<sup>2</sup> *Report by Railway Board on Indian Railways, 1931-32*, p. 57.

For the purpose of inspection various branches of railway workers are grouped under four categories: (1) transportation establishments, consisting of station staff, each station being regarded as one establishment; (2) way and works establishments, or those under Permanent Way Inspectors and Inspectors of Works; (3) power and carriage and wagon establishments, consisting of locomotive shed staff, etc.; and (4) miscellaneous establishments consisting of medical, watch and ward, office staff, etc. In 1936-37, 5,070 establishments employing 4,77,801 persons were inspected by ten inspectors giving roughly an average of 507 establishments and 47,780 persons per inspector.<sup>1</sup>

With the exception of 57,000 persons employed in the railway workshops and working under the Indian Factories Act, most of the 4,77,801 persons employed on six railway lines out of 6,76,807 persons employed on all Class I railways by the end of 1935-36, *i.e.*, over 70 per cent. came under the railway regulations.<sup>2</sup>

## 2. SHIPPING LABOUR LEGISLATION

A very important class of workers needing protection is that of seamen or all persons "employed

<sup>1</sup> Government of India, Railway Department: *Annual Report on the Working of the Hours of Employment Regulations, 1936-37*, pp. 3 and 4.

<sup>2</sup> Including Burma the actual number of workers employed in railway workshops was 57,208 in 1935. The total number of on all Class II and Class III railways amounts to only

or engaged in any capacity on board any ship " except masters, pilots and apprentices duly indentured and registered. Although both the organisation and discipline for safety and efficiency required by the shipping industry may indirectly improve the conditions of employment to a certain extent, they are not sufficient to improve the condition of work with special reference to hours, accommodation and compensation for accidents. The regulation of labour conditions on board ship has therefore become an important branch of labour legislation.

### *Indian Merchant Shipping Act, 1923*

The earliest transport legislation is in fact that for shipping, for the regulations of which there had existed a series of Acts since the middle of the nineteenth century. Most of these Acts were amended and consolidated by the Indian Merchant Shipping Act (XXI) of 1923.

The importance of regulating the labour of children and young persons employed on board ship was first brought before the Government of India by the International Labour Conference which adopted a Draft Convention on Minimum Age (Sea), No. 7, in 1920, and laid down the following principle: "Children under the age of 14 shall not be employed or work on vessels, other than vessels upon which only members of the same family are employed." The Government of India rejected the ratification of this Convention on the

ground that Indian children were accustomed to accompany their relatives to sea as apprentices at nominal wages.

In 1921, the International Labour Conference adopted two more Draft Conventions (Nos. 15 and 16) on Minimum Age (Trimmers and Stokers) and on Medical Examination of Young Persons (Sea) respectively. The First Convention has laid down the following principle: "Young persons under the age of 18 shall not be employed on work on vessels as trimmers and stokers," and the Second Convention has also laid down the following principle: "The employment of any child or young person under 18 years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a doctor who shall be approved by the competent authority." Both these Conventions were ratified by the Government of India. Moreover, the Draft Convention (No. 22) concerning Seamen's Articles of Agreement, adopted by the International Labour Conference in 1926, was also ratified by the Government of India and was given effect to by an amending Act in 1931.<sup>1</sup>

The employment of young persons as trimmers and stokers was further regulated by rules

<sup>1</sup> Indian Merchant Shipping (Amendment) Act (LX) of 1931. This Act was assented to on 7th March, 1931.

prescribing the conditions of employment of young persons as trimmers and stokers in coasting ships, notified by the Government of India on 5th December, 1931.<sup>1</sup> By these rules (1) the work of young persons as trimmers or stokers was restricted to a total period of 6 hours a day with an interval of at least 8 hours; (2) no stoker should be required to tend more than two fires or to clean and relay more than one fire during any one watch or to work in any stokehold with a temperature exceeding 110° Fahrenheit; and (3) a trimmer shall not be required to take part in the cleaning and relaying of fires or to work in a ship where the normal temperature exceeds 110° Fahrenheit. The Indian Merchant Shipping Act, 1923, was again amended in 1933.<sup>2</sup>

The present Merchant Shipping Act, as modified up to the 21st September, 1933, makes the following provisions regarding the employment of children and young persons on board ships: (1) no young person under the age of 14 shall be employed in a ship except under certain conditions, e.g., when they are employed at nominal wages and are under the charge of their fathers or other near relatives; (2) no young person under the age of 18 shall be employed as a trimmer or stoker except under certain conditions; (3) no young

<sup>1</sup> *Gazette of India*, 5th December, 1931, p. 1146.

<sup>2</sup> Indian Merchant Shipping (Second Amendment) Act (XXXV) of 1933; assented to on 21st September, 1933.



person under the age of 18 shall be employed in a ship without a medical certificate of physical fitness; (4) no young person employed as a trimmer or stoker shall be required to perform duty at sea for a total period exceeding 6 hours per day of 24 hours, nor should he be employed under conditions other than those mentioned above; and (5) every place in a British ship which is occupied by the seaman or apprentice engaged under the Act and appropriated for his use shall have a space of not less than 12 superficial feet and not less than 72 cubic feet.

### *Proposals for further Legislation*

The International Labour Conference adopted at its Twenty-first and Twenty-second Sessions in 1936 important Draft Conventions and Recommendations and they were taken into consideration by the Indian Legislative Assembly and the Council of State on 1st and 2nd October, 1937, respectively.<sup>1</sup> The important decisions of the Government of India on them are indicated as follows :—

Draft Convention concerning Hours of Work on Board Ship and Manning, 1936 (No 57), seeks to regulate the maximum hours of work and to prescribe a minimum manning scale for certain classes of ships engaged on international voyages. The hours of work of Indian seamen are not at present

<sup>1</sup> *Legislative Assembly Debates*, 1st October, 1937, pp. 2858-59; *Council of State Debates*, 2nd October, 1937.

regulated by law and are left to be settled by an agreement between the ship owners and the seamen at the time of engagement, but it is understood that they work considerably longer hours than European seamen. The Government of India are of the opinion that it will not be practicable to bring down immediately the lascars' hours of work to the scale prescribed in the Convention. They, however, feel that some regulation of the hours of work of Indian seamen is necessary and for this purpose they propose to address the principal officers of the Mercantile Marine Department, Chambers of Commerce, Shipping Companies, Seamen's Unions, etc., in India, and to approach the British shipping companies employing lascars to secure their co-operation in the matter.

Recommendation concerning Hours of Work and Manning, 1936 (No 49), is complementary to the Convention on the subject, and stipulates the regulation of hours of work and manning in the classes of vessels excluded from the scope of the Convention. It is not proposed to take any separate action on the recommendation.

Draft Convention concerning Annual Holidays with Pay for Seamen, 1936 (No 54), is designed to grant the concession of holidays with pay to seamen, and its main provision entitles a seaman after one year of continuous service with the same undertaking to a paid holiday according to a prescribed scale. The question as to how far it would

be practicable to give effect to its provisions in India was referred to the Principal Officers of the Mercantile Marine Department, Chambers of Commerce, Shipping Companies, Seamen's Unions, etc., in the country for their views. The replies received show that practically all the authorities, etc., consulted except the All-India Seamen's Federation, are of the opinion that the provisions are not suited to the conditions prevalent in India. They also indicate the possibility that the adoption of the Convention, far from benefiting Indian seamen, might affect them adversely in more than one way, as for instance, affecting the continuity of service, scale of wages, etc. Under these circumstances, the Government of India do not propose to take any action on the Convention.

Recommendation concerning the Promotion of Seamen's Welfare in Ports, 1936 (No. 48), contains certain suggestions for the provision of welfare measures for the physical and moral well-being of seamen. Some of the measures suggested are already in force at Indian ports, but the recommendation has been referred to the maritime Provincial Governments, the various Port Authorities, the Principal Officers of the Mercantile Marine Department, Chambers of Commerce, Shipping Companies, Seamen's Unions, etc., for their views as to what further action would be possible.

Draft Convention concerning the Minimum <sup>^</sup> of Admission of Children to Employment at

or Minimum Age (Sea) Convention (Revised), 1936 (No. 58), is only a revision of the Convention adopted by the Conference in 1920 fixing the minimum age of admission of children to employment at sea at 14 years. After a careful consultation with the maritime Local Governments, it was found that the provisions of the Convention could be given effect to in India only subject to the following two reservations: (i) that it should apply only to foreign-going ships and home-trade ships of a burden exceeding 300 tons, *i.e.*, to cases where agreements with seamen were required to be entered into by the Indian Merchant Shipping Law, and (ii) that nothing in the Draft Convention should be deemed to interfere with the Indian custom of sending young boys to sea in charge of their fathers or near relatives.

As, however, it was ruled that the ratification of a Convention cannot be accompanied by reservations, the Government of India were unable to ratify the Convention, but steps were taken to amend the Indian Merchant Shipping Act, 1923, so as to conform to the provisions of the Convention subject to the above reservations. By the Draft Convention as revised by the 22nd Session, the minimum age of employment has been raised from 14 to 15 years. After consultation with the interests concerned the Government of India saw no objection to this change, but the circumstances which necessitated the making of reservations on the

former occasion still existed. It was accordingly proposed to amend the Indian Merchant Shipping Act at the next suitable opportunity so as to raise the minimum age of employment from 14 to 15 years, subject to the existing reservations.

Draft Convention regarding Officers' Competency Certificate, 1936 (No. 53), is still under consideration and the result of that examination will be placed before the Legislature at a new session.

### 3. DOCK LABOUR LEGISLATION

Another class of transport workers needing legislative protection are the labourers who are employed in ports or docks. Both the hardship of work and the risk involved therein make such a regulation extremely desirable and legislative protection has been secured to such workers by two series of measures in India, namely: (1) Indian Ports Act, and (2) Indian Dock Labourers' Act.

#### *Indian Ports (Amendment) Act, 1922*

Since 1889, there had been an important series of legislation relating to harbours or ports, generally known as the Indian Ports Act, which were consolidated by the Indian Ports Act (XV) of 1908. With a view to giving effect to the principle of the Draft Convention (No. 5) of 1919, relating

to Minimum Age (Industry) which was ratified by the Government of India in 1920, the Indian Ports Act of 1908 was amended in 1922, requiring Local Governments to frame rules prohibiting the employment of children under 12 years from handling goods at piers, jetties, landing places, docks, quays, wharves, warehouses and sheds.<sup>1</sup> But children below the prescribed age were still employed in coaling ships, and this defect was rectified by an amending Act of 1931 prohibiting the employment of children under the age of 12 years from handling goods anywhere within the ports to which the Act applies.<sup>2</sup>

On the ground that the handling of goods at ports was not suited to children and a system of half-time work was not practical, the Royal Commission on Labour recommended that the minimum age of children for employment in ports should be raised to 14 years, and the securing of the observance of the law in this respect should be entrusted to factory inspectors.<sup>3</sup> The Commission also realised the necessity of limiting the hours of work in ports and recommended that the normal daily hours prescribed by the law should be fixed at 9,

<sup>1</sup> Government of India: Act No. XV of 1922, to regulate the employment of child labour in ports in British India, 29th March, 1922.

<sup>2</sup> Government of India: Act No. XI of 1931, an Act further to amend the Indian Ports Act, 1908, for certain purposes.

<sup>3</sup> *Report of the Royal Commission on Labour in India*, p. 169.

but overtime should be allowed up to the maximum of the additional three hours on any one day at an increased rate of at least  $33\frac{1}{3}$  per cent. over the ordinary rates. On 3rd November, 1932, the Government of India addressed a circular letter to all Local Governments controlling major or minor ports, asking their opinion on the question.<sup>1</sup>

*Indian Dock Labourers' Act, 1934*

The most dangerous occupation in ports and docks is the work of loading and unloading ships. The International Labour Conference adopted, at its Twelfth Session in 1929, a Draft Convention (No. 28) concerning the protection against accidents of workers employed in loading and unloading ships, which was revised (No. 32) at the Sixteenth Session in 1932, and also two Recommendations (No. 33 and 34) concerning reciprocity as regards such protection and the consultation of workers' and employers' organisations in drawing up the regulations dealing with the safety of the workers so employed.<sup>2</sup> The Government of India ratified the revised Draft Convention and with a view to giving effect to it, passed the Indian Dock Labourers Act (XIX) in 1934. The Select Committee on the Bill added a statement to the effect that the Government of India would bring to the notice of the administrations of those Indian

<sup>1</sup> *Labour Gazette*, Bombay, March 1933, pp. 529-30.

<sup>2</sup> Protection against Accidents (Dockers) Convention (R. 32), 1932

States which possessed ports the action now being taken in British India, so that those administrations might consider the advisability of adopting similar measures in respect of any of their ports which attained dimensions rendering such measures advisable.<sup>1</sup> The Governor-General in Council was granted power to bring it into force at his discretion by due notification in the *Gazette of India*.

The Act gives power to the Governor-General in Council to make regulations to safeguard dock workers from most of the dangers to which they may be exposed in their callings or against which the Revised Convention requires protection, such as the provisions (i) for the safety of working places on shore and on any regular approaches over a dock, wharf or quay or other similar premises where the processes of loading and unloading of cargo or fuel are carried on; and for the lighting and fencing of such places and approaches; (ii) prescribing the nature of access to a ship or to the hold of a ship and the methods of efficient lighting of the means of access; (iii) prescribing measures for protecting hatchways and other dangerous openings; (iv) for the safety of hoisting gear, fencing of machinery and the stocking and handling of cargoes; (v) precautions in the use of stages and trucks, in regard to exhaust and live steam, and in handling dangerous goods;

<sup>1</sup> *Legislative Assembly Debates*, 30th July, 1934, pp. 752-57; *Council of State Debates* 30th August, 1934, pp. 120-29



(vi) for the employment of competent and reliable persons to operate lifting and transporting machinery; (vii) for the rendering of first-aid to injured persons, rescuing a drowning man, and also for their subsequent treatment, if necessary; (viii) defining additional powers of inspection and specifying exemptions; and (ix) for the specification of persons and authorities who shall be responsible for compliance with the regulations made under this Act.

Local Governments may make rules, subject to the control of the Governor-General in Council, requiring the inspection of premises of ships where the process of loading and unloading is carried on and defining the manner in which the inspection should be conducted, and may, by notification in the local official gazette, appoint such persons as it thinks fit to be inspectors for the purposes of the Act within such local limits as is assigned to them. All principal officers of the Merchant Manning Department shall under this Act be inspectors *ex-officio* within the limits of their charges. All inspectors shall be deemed public servants within the meaning of the Indian Penal Code (XIV) of 1908. No court inferior to that of a presidency or first-class magistrate shall try any offence under the Act or regulations made thereunder and no prosecution shall be instituted under the Act except by or with the previous sanction of an inspector. The Act fixes the time limit of 6 months within which a pro- ce-

tion may be preferred in the case of an alleged offence. A breach of these provisions shall be punishable with a fine not extending to Rs. 500 or with a further fine of up to Rs. 20 each day for continued breach.<sup>1</sup>

#### 4. MOTOR TRANSPORT LEGISLATION

Motor transport is a recent development and although it began about the middle of the 'twenties, it has spread over most of the towns and countryside wherever roads are fit for traffic. What is more significant is that it has great possibilities for development. By 1935-36, the total length of metalled roads in British India was over 82,000 miles and on 1st March, 1937, the number of motor cars including taxicabs was 118,825 and of heavy motor vehicles (lorries, buses, etc.) 40,941.<sup>2</sup>

The bus services in India are largely the result of individual enterprise, although large concerns have also begun to appear. The number of drivers and conductors employed in various bus services throughout India must be large, but exact data are not available on this point. The question of the control of hours of work on motor-buses came under the consideration of the Royal Commission of Labour which came to the conclusion that the regulation of the hours of motor-bus workers both in cities and in the country, specially in the latter,

<sup>1</sup> *Gazette of India* 25th August, 1934, Part IV, pp. 55-57.

<sup>2</sup> *Statistical Abstract for British India, 1939*, Tables Nos. 231 and

would be very difficult at the present stage of development, and would involve the restriction of hours, not only for labourers, *i.e.*, for persons who are employed by others, but also for owner-drivers. But since excessive hours involved the question of not only the health of the driver but also the safety of all the passengers, the Commission recommended that in granting licenses for motor-buses, the authorities should consider whether, in particular cases a limitation on hours was required, and if so, how it could be enforced.<sup>1</sup>

The Government of India passed a Motor Vehicles Act in 1914, but with the changes in conditions, the Act became quite inadequate. On the basis of the recommendations of the Motor Vehicles Insurance Committee and of the Wedgwood Committee and after consultations with Provincial Governments and the Third Transport Advisory Council which deliberated on the subject in December 1937, the Government of India decided that in the interest alike of the safety and convenience of the public as well as of the development of a co-ordinated system of transport, much closer control was required than that permitted by the existent Act, and prepared a new Bill, which was introduced into the Central Assembly on 18th March, 1938. The Bill provides for compulsory insurance which has been approved by most of the Provincial Governments.

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 190.

The principal provisions of the Bill as far as labour is concerned are as follows<sup>1</sup> :—

(1) No person under the age of 18 years shall drive a motor vehicle in any public place, and no person under the age of 21 years shall drive a locomotive, tractor or transport vehicle in any public place except under certain conditions. A Provincial Government may make rules for the issue of licenses, to be effective only within the province, to drive locomotives, tractors or transport vehicles of any specified description thereof, to persons who have completed their 18th year but have not completed the 21st year.

(2) Except as otherwise provided by rules made by the Provincial Government, no person shall drive, or cause or allow any person employed by him or subject to his orders to drive, (a) for any continuous period of more than 5½ hours, or (b) for continuous periods amounting in the aggregate to more than 11 hours in any period of 24 hours, so that he has not at least 10 consecutive hours, or (c) for rest in any period of 24 hours except in the case where he has at least 9 consecutive hours for rest in one day and at least 12 consecutive hours for rest in the next day. Every driver must have at least half-an-hour rest and refreshment for every 5½ hours, driving.

<sup>1</sup> *Gazette of India*, 26th March, 1938, Part V, pp. 49-119, Bill No. 5 of 1936. A Bill to consolidate and amend the law relating to the motor vehicles.

## APPENDIX

### THE LATEST LABOUR MEASURES <sup>1</sup>

The most important measures concerning labour in specific industries in British India, proposed, introduced or enacted in recent months, are those which relate to factories, mines and transport industries. The Government of India has introduced an important factories amending Bill for protecting children in small undertakings and has also enacted important acts for securing greater safety in mines and for regulating labour in the rapidly growing motor bus service. The measures undertaken by Provincial Governments relate mostly to factories including shops.

#### FACTORY LEGISLATION

The only important factory measure undertaken by the Government of India in recent months is the Indian Factories (Amendment) Bill, 1940. The Provincial Governments have, however, undertaken several factory measures for the extension of the

<sup>1</sup> Burma has been separated from India proper since 1st April, 1936. The latest development of its labour legislation has, therefore, been omitted from discussion in this and other appendices.

registration every year for which a regular fee is charged. The object of the Act is to lighten the Government of the financial burden in maintaining the Factory Inspection Department <sup>1</sup> A Bill, called the Factories (Punjab Amendment) Bill, 1939, has also been proposed with a view to authorising the Government to levy, so as to meet part of the cost of the factory inspectorate, fees for the issue of registration certificates and their annual renewal <sup>2</sup>

*War Emergency Measure* —Exemption under the Indian Factories Act, 1934, for war time emergency was issued by the Government of Bombay, exempting for two months the factories from the hours of employment provisions presumably as a war measure <sup>3</sup> The Punjab Government similarly issued a notification exempting for one year from the hours of the employment provisions of the Indian Factories Act, 1934, certain factories in the province which were either concerned with the production of war material or with material needed for the prosecution of the war.<sup>4</sup>

*Measures Introduced or Proposed* —A Private Bill, called the Central Provinces and Berar Unregulated Factories (Amendment) Bill, 1938, was introduced in the Legislature on the 28th September, 1938, for laying down rules restricting the work

<sup>1</sup> C P and Berar Gazette 18th November, 1938, Part II

<sup>2</sup> Punjab Government Gazette 27th September, 1939

<sup>3</sup> Bombay Government Gazette 19th October, 1939, Part IVA

<sup>4</sup> Punjab Government Gazette (Extra) 16th October, 1939

of sorting *bidis* to women alone, prohibiting the admission of men into rooms where women were at work, and preventing the distribution of *bidi* leaves to men and women jointly.<sup>1</sup>

*Proposed Shop Measure of the Central Government* :—As a result of the first conference of the Labour Ministers of the Provinces in January, 1940, the Government of India drafted a Bill, called the Weekly Holidays Bill, 1940, with a view to enacting an enabling measure for the compulsory closing of shops, commercial establishments, restaurants and theatres etc., for the minimum period of one day in the week and enabling the Provincial Government to provide an extra half holiday, if it thinks it necessary. The Bill was circulated to the Provincial Governments for their opinions in July, 1940.

*Provincial Shop Measures* :—The Bombay Shops Act (XXIV), 1939, the Bill for which was drafted in 1938, as referred to before, and introduced in the Legislature on the 17th April, 1939, was passed on the 1st November, 1939. The Act limits the hours of work to  $9\frac{1}{2}$  per day, and 208 per month in shops and commercial establishments and 10 hours per day in restaurants, eating houses, theatres and places of public amusements ; provides one paid holiday per week ; prohibits the employment of children below 12 years of age ; and fixes the hours of work for young persons at 8 per day.

<sup>1</sup> C. P. and Berar Gazette, 18th November, 1938, P

and 42 per week and during the period between 6 A.M. and 7 P.M. only <sup>1</sup>

The Sind Shops Bill, 1939, was introduced in the Legislature on the 28th January, 1939, with a view to prohibiting the employment of children, limiting the hours of work of young persons, and providing for the early closing of shops. On the same day was also introduced the Karachi Shops Bill, 1939, with the same object in view but limiting its application only to the city of Karachi <sup>2</sup>

Reference has already been made to the introduction of an unofficial Bill, called the Bengal Shop Hours and Shop Assistants Bill, 1938, in the Legislature on the 27th January, 1938. The Bill was, however, withdrawn on the 5th May, 1939. An Official Bill, called the Bengal Shops and Establishments Bill, 1939, was introduced in the Legislative Council on the 6th December, 1939 <sup>3</sup>. The Bill was finally passed on 31st October, 1940. The Act limits the hours of work to 10 per day and 56 per week for shops and commercial establishments, and 10 hours per day for places of public entertainments, overtime is to be paid at the  $1\frac{1}{2}$  the ordinary rate up to the limit of 120 hours in the year, and the Act also provides for privilege leave on full pay for 14 days after

<sup>1</sup> *Bombay Government Gazette*, 2nd November, 1939, Part IV

<sup>2</sup> *Sind Government Gazette*, 13th April, 1939, Part IV

<sup>3</sup> *Bengal Legislative Council Debates*, 5th January, 1938, Vol III, No 3, *Calcutta Gazette Extra-ordinary*, 6th December, 1939



12 month's continuous service and casual leave on half pay for 10 days in every year.<sup>1</sup>

### MINING LEGISLATION

Reference has already been made to the appointment by the Government of India of the Coal Committee of 1936 and of its various recommendations, some of which were given effect to by the Amending Act of 1937. With a view to implementing some other recommendations of the Coal Committee, the Government of India passed the Coal Mines Safety (Stowing) Act, 1939, on the 11th April, 1939, and brought most of its provisions into operation on the 27th May, 1939, and others on the 1st December, 1939. The Act provides for stowing (*i.e.*, 'filling with sand or other incombustible material of the space left void by the extraction of coal) in areas where there is an urgent need and immediate danger to life or substantial loss of coal and also for the imposition of an excise duty on coal and coke so as to constitute a fund for granting assistance to owners, agents and managers of coal mines for stowing operations.<sup>2</sup> A Coal Mines

<sup>1</sup> *Calcutta Gazette*, 31st October, 1940. Bengal Act, XVI of 1940. Information has also been received of the enactment by the Punjab Government of the Trade Employees Act, 1940, prohibiting the employment of children under 14 in shops and commercial establishments including theatres etc., restricting the hours of work to 10 per day and 54 per week, and fixing overtime payment at twice the ordinary rate.

<sup>2</sup> *Gazette of India*, 25th February, 1939, Part V. April  
Part IV.

Safety (Stowing) Amendment Act, 1940, was also passed on the 26th March, 1940, with a view to making it permissible to finance from the Coal Mines Stowing Fund set up under the Act, measures to extinguish fires in mines and also other protective measures, such as the strengthening of the boundaries between mines and prevention of inundation of mines <sup>1</sup>

The Indian Mines (Amendment) Bill, 1940, was introduced in the Central Legislative Assembly on the 18th March, 1940, with a view to inserting some provisions in Section 29 of the Act of 1923, as recommended by the Coal Mining Committee referred to above, and to making the supervisory staff responsible in such respects as the payment of wages and salaries to the owners of certain coal mines instead of to the raising contractors, whose cheap interest was in the increased and cheap production rather than in the proper and safe working of a mine <sup>2</sup>

### TRANSPORT LEGISLATION

An important measure of transport legislation is the Motor Vehicles Act (IV), 1939, the Bill for which was introduced in the Central Assembly on the 18th March, 1938, as referred to before and

<sup>1</sup> *Gazette of India*, 9th March, 1940, Part V 30th March, 1940, Part IV

<sup>2</sup> *Gazette of India*, 23rd March, 1940 Part IV

passed on the 16th February, 1939. The Act came into force on the 1st July, 1939, except Chapter VIII (insurance of motor vehicles against third party risks) which will come into force on the 1st July, 1943. The Act fixes the hours of work at 9 a day and 5 at a stretch. The other provisions are practically same as those in the Bill described before.<sup>1</sup>

The Indian Merchant Shipping (Amendment) Act (VI), 1939, the Bill for which was introduced in the Central Assembly on the 10th November, 1938, was passed on the 17th February, 1939. The Act authorises deductions from wages by the way of provident fund contribution from wages payable to workers. The necessity of such amendment arose from the fact that the Sindhia Steam Navigation Company had instituted a provident fund scheme for the benefit of its own staff afloat, which required part contribution payable by all eligible members of the staff by deductions at a fixed percentage from the monthly wages and part contribution by the employer of an amount equal to the annual aggregate contributions of all the members.<sup>2</sup>

<sup>1</sup> *Gazette of India*, 25th February, 1939, Part IV.

<sup>2</sup> *Gazette of India*, 12th November, 1938, Part V.



## PART II

### GENERAL LABOUR LEGISLATION



## CHAPTER V

### ABOLITION OF SERVILE LABOUR

The greatest hardship and ignominy from which labour has suffered, and to a certain extent still suffers, is servitude in the form of slavery and serfdom, the vestiges of which are still to be found in the form of bond-service, pledging of labour and forced labour in India. "There are traces of feudalism," says the Royal Commission on Labour, "to be found in many parts of the country; in a few areas there is still a system of bond-service which is not remote from slavery."<sup>1</sup> Pledging of labour and especially forced labour were, and to a certain extent still are, more common. To this customary servitude of various kinds was added the statutory servitude, i.e., the indenture system, or labour under penal sanction, which was provided by the statutory regulation during the nineteenth and the first quarter of the twentieth centuries, and which has recently been abolished, as discussed before. Measures are now being taken for the abolition of customary servitude.

<sup>1</sup> *Report of the Royal Commission on Labour in India, 1931*, p. 15.

## 1. ABOLITION OF PENAL CONTRACT

The rise and fall of the indenture system in British India, especially in connection with the recruitment of labour for the Assam tea gardens, as well as employment of labour on plantations in Madras and Coorg, have already been described and their effects indicated. It remains only to recapitulate what has already been said in the interest of labour in general.

The origin of the indenture system or labour under penal sanction, may be traced to the first period of British rule under the East India Company. The earliest statute legalising forced labour was the Bengal Regulation XI of 1806, under which it was the duty of native officers "to provide troops with whatever bearers, coolies, boatmen, carts and bullocks which may be desirable for the troops to prosecute their route." This Regulation was amended by the Regulation III of 1820, rescinding some of its provisions.<sup>1</sup>

The more direct source of indenture system is however, to be traced to the Bengal Regulation VII of 1819, Section 6 of which made the following provisions :—

"All persons who may voluntarily engage to serve as workmen of any description for a stipulated term, or who may voluntarily contract for the performance of any specific work, and who, without



good and sufficient cause, shall wilfully quit the service so engaged for, before the expiry of the term agreed upon, or shall wilfully neglect to perform the work so contracted for, shall be deemed guilty of a misdemeanour and conviction before a Magistrate or Joint Magistrate, shall be liable to a sentence of imprisonment not exceeding one month." A convicted person might be required to complete the stipulated term of service and any subsequent conviction of wilful neglect might be punished with a further imprisonment not exceeding two months.<sup>1</sup> It was not until slave-holding became a punishable offence in 1860 that this Regulation was abolished by the Act (XVII) of 1862.<sup>2</sup>

In the mean time the Government of Bombay also passed the Regulation (XII) of 1827. Section 18 of this Regulation made the following proviso:—"It shall be lawful for the magistrate on the occasion of emergency to compel for public services the services of tradesmen, artificers, labourers and generally all persons following the occupation or furnishing labour or articles for hire at a rate of remuneration not below the highest they may be in the habit of receiving." The Regulation provided that the neglect of duty

<sup>1</sup> Bengal Regulation No. VII of 1819.

<sup>2</sup> Act No. XVII of 1862: An Act to repeal previous Regulations, and Acts relating to criminal procedure; assented to by the Governor-General on 1st May, 1862.

(2) the *kamiauti* system in Bihar; (3) the *gholi* or *velli* and *khambari* systems in Madras, the Central Provinces and several Indian States<sup>1</sup>; and (4) the *bhagela* system in Hyderabad and other parts of India. The essential feature of these systems is that a man is given, on the occasion of his marriage, a cash advance, housing accommodation and payment in kind, on all of which his labour pays the interest but never repays the capital. He is not permitted to leave without refunding the original advance. This servitude becomes hereditary and involves all the members of his family. He becomes a virtual serf and can be sold or mortgaged. His freedom depends on a cash payment, which it is impossible for him to make, or on flight, which involves the risk of being caught and brought back to his old master.

The inequity of this system of servitude, which is practically serfdom, has been gradually realised, and in 1920 the Bihar and Orissa Kamiauti Agreements Act<sup>2</sup> was passed, declaring *kamiauti* agreements null and void if they extended over a year and were not written in a duly stamped document, if the *kamia* (person performing the labour under the agreement) were not given a copy of the original agreement and the liabilities in respect of the

<sup>1</sup> *Royal Commission on Labour in India: Evidence*, Vol. VIII, Part 2, pp. 14-15; *Report of the Royal Commission on Labour in India*, p. 362.

<sup>2</sup> Bihar and Orissa Kamiauti Agreement Act (VIII) of 1920. Cf. *Bihar and Orissa Gazette*, 10th November, 1920.

same were not extinguished on the expiry of these agreements, and if the wages were not fair and equitable.

As in the case of the *ḥamiauti* system in Bihar, the *vetti* system has also come under the control of the Government of Madras. The system takes the form of domestic service of landlords and others, for which no payment, or only inadequate payment, is made. Although this bond-service is not widespread, nor any penalty is inflicted by the employer for refusal to do the service, the Government is resolved not to tolerate any kind of serfdom. The Government of Madras, in its Order No. 1823, Revenue, dated 1st September, 1932, issued orders for its termination. In a press communiqué on 8th February, 1938, the Government again issued orders to all Government officers to stop the system whenever found.

#### 4. REGULATION OF FORCED LABOUR

A much more common form of servile labour is the *begar* system, or forced labour, which has not only been a customary form of servitude, but was also supported by the statutory sanction. Section 8 of the Bengal Regulation (XI) of 1806, as amended by the Regulation (III) of 1820, permitted the impressment of bearers, coolies, boatmen, carts, bullocks, etc., especially in connection with the tours of the Government officers.

The inequity of forced labour has long been realised and attempt has also been made from time to time to suppress it. In 1930, the International Labour Conference adopted a Convention, of which Article 1 required each covenanting State "to suppress the use of forced or compulsory labour in all its forms" and Article 4 required the prohibition of compulsory labour for the benefit of private individuals or companies or associations. The Government of India, though unable to ratify the Convention, adopted certain resolutions passed by the Central Legislature on the Convention and asked local Governments to take action accordingly.

Various Provincial Governments have undertaken measures for the suppression of forced labour. The Government of the Central Provinces passed on 20th January, 1938 the Central Provinces Tenancy (Amendment) Act (1920) with a view to penalising the levying of *begar* (forced labour) by landlords. One of the sections of the general Act of 1920 penalised the levy of illegal cash exaction. The new amendment provides that no landlord shall: (a) employ his tenant or a member of the family of such tenant or a servant of such tenant or (b) make use of any cattle or agricultural implement of such tenant, against the will of the tenant or without making, or agreeing to make, any payment for such employment or its use. If no payment is made, the landlord will be liable to

a penalty not exceeding twenty times the market rate of wages or higher, or wherever no such market rate can conveniently be determined, to a maximum sum of Rs. 100. The fine in the way of penalty enforced is to be paid to the tenant as compensation.<sup>1</sup>

The Government of the United Provinces has also decided to enact a similar law for the suppression of forced labour by repealing the Bengal Regulation (XI) of 1806 as amended by Regulation (III) of 1820, which legalises forced labour in connection with the tours of Government officials, and a Bill will shortly be introduced to the Legislative Assembly to that effect.<sup>2</sup>

<sup>1</sup> *Central Provinces and Berar Gazette*, 28th January, 1938.

<sup>2</sup> *United Provinces Gazette*, dated 9th April, 1938, Part VIII, pp. 300-301.

## CHAPTER VI

### SOCIAL WELFARE LEGISLATION

An important series of legislative measures in recent years relates to the general welfare of workers, especially with reference to education, housing, health and recreation. Welfare work has opened a vast field for legislative measures for both central and local Governments, and there is an immense scope for improving by these measures the moral and material conditions of the working classes. Some of the measures, such as the regulation of child labours and the provision for sanitation and safety have been introduced already into the specific legislative measures and others have been brought into operation by separate legislation. The most important classes of welfare measures which have drawn public attention in India are (1) employment of children, (2) reduction of hours, (3) industrial housing, and (4) public health.

#### 1. CHILD LABOUR REGULATION

The protection of children from premature labour has been the historical origin of legislation in Great Britain and it is also true in the case of India. Child labour in India was first regulated

in 1881 and since then this regulation has been extended to mines, docks and shipping.

The draft Convention for a minimum age was first adopted by the International Labour Conference in 1919, laying down the principle of 14 years as the minimum age for admission of children to industrial employment for countries in general, and 12 years for India and Japan. In 1937 the International Labour Conference revised the Minimum Age Convention of 1919, raising it from 14 to 15 for "work in any public or private industrial undertakings or any branch thereof."<sup>1</sup> So far as India is concerned the Conference made the following provisions :

- (a) Children under the age of 12 years shall not be employed or work in factories working with power and employing more than 10 persons.
- (b) Children under the age of 13 years shall not be employed or work in the transport of passengers or goods or mails by rail, or in handling of goods at docks, quays, or wharves, but excluding transport by hand.
- (c) Children under the age of 15 years shall not be employed or work (i) in mines and quarries, and other works for the

<sup>1</sup> Draft Convention (No. 59) fixing the minimum age for admission of children to industrial employment (revised, 1932), article 7.

extraction of minerals from the earth and (ii) in occupations to which this article applies which are scheduled as dangerous or unhealthy by the competent authority.

- (d) Unless they have been medically certified as fit for such work—(i) persons who have attained the age of 12 years, but are under the age of 17 years shall not be permitted to work in factories working with power and employing more than 10 persons, and (ii) the persons who have attained the age of 15 years but are under the age of 17 years shall not be permitted to work in mines.

As noted before, the Government of India did not ratify the draft Convention of 1919, although its principle was given effect to in some of its legislative measures. Since some of the provisions of this revised convention have been taken from the Acts already passed by the Government of India, the question of ratification of the Convention has come under consideration of the Government of India.

The immediate question of further child legislation falls under two categories, namely,—(1) measures in respect of unregulated factories; and (2) measures in respect of plantations. As for the former, steps have already been taken by the Central Government for the regulation of child



labour in unregulated factories, and the Government of the Central Provinces has even passed an Act for regulating child labour in certain classes of workshops. In view of the fact that the Royal Commission on Labour has envisaged provisional measures in respect of small factories, and the Provincial Governments have been granted, under the new Constitution, concurrent powers in factory legislation, there is no doubt that the other provinces will follow the example of the Central Provinces.

As to child labour on plantations, the necessity of such measures has also been realised. The Royal Commission found the abuse of child labour on many plantations. Until recently, the normal practice was to allow children to accompany their parents at any age, their earnings being added to those of their parents, although in some gardens the managers were accustomed to send home young children found at work with their parents. In many cases children were not normally entered separately in the wage books as employed persons until about ten years of age. On the basis of the statutory age limits for Indian children employed on plantations in Ceylon and Malaya, the Royal Commission recommended the legal prohibition of employment, either directly or with their parents, of children on plantations before the age of 10 years, and also that the names of all employed children should be entered in the wage book, and

nery to enforce it in all kinds of occupations, it was impossible for the Government of India to accept such Convention. The Indian Legislature therefore rejected the ratification of the Convention.<sup>1</sup>

As in the case of industrial employment, the convention concerning the admission of children to non-industrial employment was also revised by the International Labour Conference in 1937, laying down the following principle :—" children under 15 years of age, or children over 15 years of age, who were still required by national laws or regulations to attend primary school shall not be employed in any employment to which this Convention applies, except as hereafter otherwise prohibited."<sup>2</sup> As far as India is concerned, the following provisions were made: Children under 13 years of age shall not be employed (a) in shops, offices, hotels or restaurants; or (b) in places of public entertainments; or (c) in any other non-industrial occupations to which the provisions of this paragraph may be extended by the competent authority.<sup>3</sup>

As in the case of the first draft Convention concerning non-industrial occupations of 1932, the Government of India has refused to move any

<sup>1</sup> The question of ratification was taken up by the Council of State on 8th December, 1932, and by the Legislative Assembly on 20th September, 1933. Cf. *Council of State Debates*, 8th December, 1932; *Legislative Assembly Debates*, 20th September, 1933.

<sup>2</sup> Cf. Draft Convention (No. 60) concerning the age for admission of children to non industrial employment (revised, 1937, Article 2.

<sup>3</sup> *Ibid.*, Article 9.

resolution for its ratification in the Indian Legislature on the ground that all-India legislation on the comprehensive lines indicated by the Convention is not called for in existing Indian conditions.

## 2. MEASURES FOR SHORTER HOURS

The demand for shorter hours has dominated labour movements in most countries and a 48 hour week had long been the goal of workers and their sympathisers as well as of philanthropists and idealists. But industrial depression, increasing unemployment, growing rationalisation and rising consciousness among the workers themselves have recently led to the movement for still shorter hours and the principle of a 40 hour week has been adopted by the International Labour Conference since 1935 and has been applied to the national industry by such countries as France. The movement for shorter hours has also its repercussion in India.

### *Bengal Hours of Work Bill, 1938*

A non-official Bill, called the Bengal Hours of Work Bill, was introduced into the Legislative Assembly on 16th September, 1937, with a view to fixing the hours of work at 40 a week in industry in Bengal. It was argued that shorter hours would contribute to the improvement of health in a hot country like India and also to the increase of employment to the workless. The main provisions

a Bill further to amend the Land Acquisition Act, 1894, for certain purposes. On 29th September, 1932, the Bill was circulated for opinion to all local Governments and Administrations. The Select Committee to which the Bill was referred added two important safeguards: (1) application of the Act only to industrial concerns employing at least 100 workmen, and (2) the acquisition of the land also for purposes of providing amenities (e.g., sanitation, sewage and other services).<sup>1</sup> The Bill as amended by the Select Committee was passed in 1933,<sup>2</sup> as Land Acquisition (Amendment) Act XVI of 1933.

Under the old Act, the Companies which were registered could acquire land compulsorily, if the local Government was satisfied that it was needed for the construction of some work and that that work was likely to prove useful to the public. The amendment adds some new provisions: (1) a Company is enabled to acquire land compulsorily also for the purpose of erecting dwelling houses for its workmen or for providing amenities (e.g., sanitation, sewage and other services) directly connected therewith; (2) an industrial concern, ordinarily employing not less than 100 workmen and owned by an individual or an association of

<sup>1</sup> *Gazette of India*, 10th September, 1932, Part V, p. 171; 15th February, 1933, Part V, p. 23; *Legislative Assembly Debates*, 6th and 14th February, 1933.

<sup>2</sup> *Legislative Assembly Debates*, 1st September, 1933; *Council of State Debates*, 7th September, 1933.

individuals, is also deemed to be a Company so far as concerns the acquisition of land for such purposes; (3) the local Governments are granted powers to ensure that the houses which are to be erected shall be properly built and used, and also to prescribe the time, condition and manner, in which the dwelling houses or amenities shall be erected or provided.<sup>1</sup>

### *Recommendation for Provincial Legislation*

Industrial housing is, however, a proper subject to provincial legislation and the Royal Commission on Labour has made a number of recommendations for action by Local Governments. Some of the Provincial Governments have in fact already passed some measures which they have either amended or brought into operation in recent years. The recommendations of the Royal Commission may be classified under the following headings.<sup>2</sup>

(1) A survey of urban and industrial areas by Provincial Governments so as to ascertain the housing needs and the laying-down of minimum standards regarding cubic and floor space, ventilation and lighting, and drainage and sanitation; the development and the lay-out of industrial areas and provisions and maintenance of proper sanitary

<sup>1</sup> *Gazette of India*, 16th September, 1933, Part IV, p. 34.

<sup>2</sup> Cf. *Report of the Royal Commission on Labour in India*, pp. 287-93; *Bulletins of Indian Industries and Labour*, No. 61, *Indian Labour Legislation*, 1932-33, p. 15.

nutrition for both research and propaganda, (2) rigorous enforcement of Adulteration of Foods Act, (3) strengthening of the Public Health Department to deal with industrial hygiene and industrial diseases, (4) enactment of comprehensive public health Acts by all provinces, (5) employment of a malarologist in the Health Department of each province, (6) appointment of women in Public Health Departments and hospitals, and (7) exploration of all methods leading to the elevation of existing hardships arising from the need of provision for sickness.<sup>1</sup>

Public health comes within the scope of local Governments and the recommendations of the Royal Commission have up to the present been followed by two lines of activities in different provinces—first, the amendment of the Bihar and Orissa Municipal Act (III) of 1935 so as to provide compulsory notification of certain infectious diseases, and, secondly, the enactment and application of the Adulteration of Foods Act; for instance, (a) the Food Adulteration Act of 1919 was amended and extended to the whole province of Bengal, (b) the Prevention of Adulteration Act of 1918 was amended by the Act (XIX) of 1935 for amplifying certain provisions in Madras; (c) the Prevention of Adulteration Act of 1925 was amended by the Act (XXIII) of 1935 in Bombay, (d) the Prevention of Adulteration Act of 1912

<sup>1</sup> *Report of the Royal Commission on Labour in India*, pp. 251-62.

was amended by the Act (XIII) of 1932 in the United Provinces ; (e) the Punjab Pure Food Act of 1929, was extended to the Provinces of Delhi and Ajmer-Merwara in 1932; and (f) Pure Food Acts are also in force in other major provinces.<sup>1</sup>

<sup>1</sup> Bulletins of the Indian Industries and Labour, No. 61, .  
*Labour Legislation, 1932-1937*, p. 15.

## CHAPTER VII

### PROTECTION OF WAGES LEGISLATION

A very important branch of labour legislation which Government has undertaken in recent years is that for the protection of wages. With the sole exception of security of health and safety in the place of work, the most important question for the worker is the protection of the wages which he has earned against withholdings and deductions. Closely connected with the payment of wages is the question of indebtedness for which a worker may be subjected to imprisonment, attachment of wages, intimidation or molestation and usury. The protection of wages has been brought about by a series of legislative measures which may be classified under the following headings: (1) payment of wages; (2) imprisonment for debt; (3) attachment of wages; (4) prohibition of intimidation; and (5) liquidation of debt; to which must also be added minimum wage and paid holiday, for which the Bills are already under discussion in the provincial legislatures.

#### 1. PAYMENT OF WAGES LEGISLATION

The most important measure in connection with the protection of wages is the payment of wages legislation. Industrial workers have often



to suffer from withholdings or delays in the payment of wages and the deductions from the wages by way of fines, etc. In 1925, a private Bill, called the Weekly Payment Bill, was brought before the Legislative Assembly. It provided for the compulsory adoption of a system of weekly payment of workers' wages, but permitted other systems to exist provided that wages were not withheld for more than a week. The Bill was opposed both by employers and provincial Governments, one of the grounds being its interference with the existing periods of payment, and was withdrawn on the assurance given by the Government of India that the question of prompt payment would be considered at the earliest opportunity.<sup>1</sup>

### *Payment of Wages Act, 1936*

In the meantime, Government undertook enquiries into the matter. An enquiry made by the Bombay Labour Office in 1925, showed that there was no uniformity regarding the periods of payment in different industries.<sup>2</sup> In 1926 the Government of India also addressed local Governments with a view to ascertaining the position with regard to the delays which occurred in the payment

<sup>1</sup> A. G. Glow : *The State and Industry*, p. 163; *Report of the Royal Commission on Labour in India*, p. 237.

<sup>2</sup> *Bulletins of Indian Industries and Labour*; No. 34; *Periods of Wage Payment*, 1925, pp. 1-3; *Labour Gazette* (Bombay) January, 1925, pp. 491-502.

of wages to persons employed in industry and the practice of imposing fines on them. The investigations revealed the existence of abuses both in delays and fines. The Government of India proceeded to formulate legislative proposals in 1928, but postponed any final decision until after the Royal Commission on Labour had made its report. The Royal Commission considered the question in the light of additional evidence and corroborated most of the former results, and recommended legislation regarding the payment of wages in three directions, namely: (1) to regulate deductions from wages by way of fines or for damages done by workers and service rendered by employers; (2) to secure the prompt payment of wages by limiting the periods within which the wages earned should be paid; (3) to reduce in certain classes of factories the periods by which the wages are paid.<sup>1</sup>

With a view to giving effect to the first two recommendations of the Commission, the third being still a controversial point, the Government of India introduced a Bill, called the Payment of Wages Bill, into the Legislative Assembly on 1st February, 1933, to regulate the payment of wages to certain classes of persons employed in industry.<sup>2</sup> The Bill as presented to the Assembly had a

<sup>1</sup> *Report of the Royal Commission on Labour in India*, pp 213-21 and 240-41.

<sup>2</sup> *Gazette of India*, 4th February, 1933, Part V, pp. 9-11.

twofold object : (1) to secure the workers against unfair deduction of wages paid to them ; and (2) to secure that those wages should be paid as soon as is reasonably possible after they have been earned. The Bill, however, lapsed, and the Government of India revised the original Bill in the light of the further opinions and criticisms of local Governments and Administrations and reintroduced it into the Legislative Assembly on 13th February, 1933.<sup>1</sup>

The Bill as reported by the Select Committee was taken into consideration by the Legislative Assembly on 5th February, 1936. An important amendment introduced by employers' representative was accepted by Government to the effect that when ten or more labourers working in concert have absented themselves without due notice and without reasonable cause, they might lose 13 days' wages in lieu of due notice. The amendment was said to be based on reciprocity with workers who could claim in case of dismissal or discharge without notice not only the wages due to them but also the amount due in lieu of the notice, but its real purpose was to restrict lightning strikes. Labour representatives strongly opposed the amendment on the following grounds : (1) that it was foreign to the original Bill and was rejected by the Select Committee where it was first intro-

<sup>1</sup> *Gazette of India*, 16th February, 1935, Part IV, pp. 17-22.

duced; (2) that strike was the only right the workers had against attack on their wages and standard of living; (3) that the period of notice might be shorter in the case of workers, as recommended by the Royal Commission on Labour, and (4) that the proviso made an employer the sole judge in deciding the claim which he might have against his employee.

The Government of India argued that such an amendment would strengthen the hands of the labour officer of the Government of Bombay in getting conciliatory machinery going and would thereby help to prevent lightning strikes. There were also three safeguards to the amendment: namely (1) the foregoing of recovery of wages in the case of individuals; (2) the existence of reasonable cause which would have to be established in the case of ten or more persons acting in concert and absenting themselves without due notice; and (3) the making of the power of deduction of wages subject to the rules to be made by the local Government. Moreover, under the existing conditions the employer had the right to recover damages for absence for the period of notice, which might be even 30 days from any individual and for any cause and could exercise that right against any individual, but the amendment put a restriction that in no case could more than 13 days' pay be recovered. The Government of India, however, accepted an amendment in the

Council of State limiting the deductions of wages in lieu of due notice to 8 days instead of 13 days and the Bill was passed in April, 1936.<sup>1</sup>

Certain amendments of a formal character were made by the Repealing and Amending Act (XI) in 1937.<sup>2</sup> After the preparation of the necessary rules by both the central and local Governments the Act, as amended, was brought into force on 28th March, 1937.

### *Payment of Wages (Amendment) Act, 1937*

The Act was again amended by the Payment of Wages (Amendment) Act (XXII) on 14th April 1937.<sup>4</sup> The object of this amendment was to remedy a defect in Section 9 of the Act which while permitting deductions from wages when workmen were absent from work, made no provision for such deductions in case they were present but declined to work. The amending Act provides that for the purposes of this Act "an employed person shall be deemed to be absent

<sup>1</sup> *Legislative Assembly Debates*, 5, 7, 10, 12 and 14th February and 18th April, 1936; and *Council of State Debates*, 24th February 1936.

<sup>2</sup> *Bulletins of Indian Industries and Labour*, No. 61, p. 39; see also *Gazette of India*, 13th February, 1937, Part V, pp. 91-97.

<sup>3</sup> The Government of India published the final rules under Notification No. L. 3067, dated 24th February, 1937. Cf. *Gazette of India*, 27th February, 1937, Part I, pp. 303-312.

<sup>4</sup> *Gazette of India*, 3rd April, 1937, Part V; 17th April, 1937, Part IV. The Bill was passed by the Assembly on 30th April, 1937, and assented to by the Governor-General on 14th April, 1937.

from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work."

### *Chief Provisions of the Act*

The main provisions of the Act are the following :<sup>1</sup>

*The Scope* :—The Act applies only to wages payable to persons receiving less than Rs. 200 a month. It is applicable in the first instance to the payment of wages to persons employed in factories and upon railways ; in the latter case the workers employed by contractors or sub-contractors are also to be included. But the Local Government may, after giving three months' notice in the local official gazette, extend any or all of these provisions to the payment of wages to any class of persons employed in any other, or class of, industrial establishments, such as tramways and motor omnibus services ; docks, wharves and jetties ; inland steam vessels ; mines, quarries or oil fields ; workshops ; and plantations (e.g., cinchona, rubber, coffee or tea) employing 25 persons or more.

*Periods of Payment* :—No wage period shall exceed one month and all wages shall be paid in cash and only on working days. Wages shall

<sup>1</sup> Act No. IV of 1936, *Gazette of India*, 7th September, 1935, Part V, pp. 77-66; 2nd May, 1936, Part IV, pp. 21-29.

ordinarily be paid within seven days of the expiry of the period within which they have been earned in factories, on railways, and in other industrial establishments, employing less than 1,000 persons, and within ten days in cases where 1,000 persons or more are employed, and within two days when an employee is discharged.

*Regulation of Deductions* :—Deductions from the wages may be made only in accordance with the provisions of the Act and may be of the following kinds only, namely :

(a) *Fines* may be imposed only on persons of fifteen years or over and only for such acts and omissions on their part as are specified by employers in regular notice with previous approval of the local Government or the prescribed authority ; they may not amount to more than half an anna in the rupee ( $1/32$  on the wages) in any wage period and may not be recovered by instalments or after the expiry of 60 days from the day on which they were imposed ; all fines realised shall be recorded in a prescribed register, and credited to a common fund maintained for the staff as a whole and applied only to such purposes as are approved by the prescribed authority ; no fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the imposition of such fine.

(b) *Deductions for absence from duty* may be made from the wages of a person, either for the

*Administration of the Law*

*Settlements of Claims* :—All claims arising out of deductions from, or delays in the payment of, wages should be dealt with by either any commissioner for workmen's compensation or other officer with experience as a judge of a Civil Court or as a stipendiary magistrate, who may be appointed by the local Government, by notification in the local official gazette, for such purpose in any specific area. Such authority may direct the refund of the amount deducted or the payment of the delayed wages together with payment of such compensation as the authority may think fit, not exceeding ten times the amount deduced in the former case and not exceeding Rs. 10 in the latter, provided that there has not been any *bona fide* error or dispute as to the amount of wages payable, or the occurrence of any emergency on the part of the employer, or the failure of the employee to apply for or accept payment. In addition to individual applications for the recovery of unpaid wages, a single application may also be made by an unpaid group in respect of the claims, provided that the workers belong to the same wage-period; in such a case the maximum compensation that may be awarded for the delay in payment of wages shall be Rs. 10 per head. Except for special reasons, application for such cases shall be made within six months from the date on which the deduction from the wages was



made or the payment of wages was due. In case of malicious or vexatious complaints, a person may be made to pay a penalty to the extent of Rs. 50 to the person against whom he has brought the complaint. An appeal to the Court may be made by either the employer or the employee against the decision, within 30 days of the date on which such decision has been made, for the refund of the deducted wages if the sum directed to be paid by the employer exceeds Rs. 300, or for the payment of the delayed wages, if the total sum claimed by the employed person exceeds Rs. 50, or for the payment of penalty by the employed person if a complaint has been adjudged to be malicious or vexatious.

*Infringement and Penalties :—*The maximum penalty for the contravention of the provisions for the regular payment of wages and for the regulation of the deductions from wages earned by way of fines or otherwise is Rs. 500, and that for exceeding the wage period over a month, for not paying wages in cash and not displaying by specified notice the abstract of the Act and the rules made thereunder is Rs. 200. But no prosecution shall be instituted in the first case unless a successful claim has been made before the proper authority appointed under the provisions of the Act or the Appellate Court and sanction has been granted by them for the making of the complaints after having given the person complained against an opportunity of showing

cause against the granting of such sanction. In the second case and also in the case of the contravention of the rule made by the local Government, no prosecution shall be instituted unless a complaint has been made by or at the sanction of an inspector under the Act.

*Inspection* :—An inspector of factories shall also be an inspector for the purposes of this Act in respect of all factories within the local limits assigned to him, and the Governor-General in Council may appoint inspectors for the purposes of this Act in respect of all persons employed upon a railway, and also the local Government may, by notification in the local official gazette, appoint other persons as inspector for the purposes of the Act.

## 2. IMPRISONMENT FOR DEBT LEGISLATION

A most flagrant evil to which workers as well as other classes of people have until recently been subjected is imprisonment for debt. Section 51 of the Code of Civil Procedure, 1908, permitted imprisonment for debt and all male persons were liable to arrest and imprisonment for 6 months in the execution of a decree for the payment of Rs. 60 or more and for six weeks in the case of smaller sums.

Section 51 of the Code had a long history. Over half a century ago, the Government of India took up the question of abolishing imprisonment for a debtor who was generally unable to pay, and after

consulting the local Governments, formulated a Bill on the principle that the courts ought not to give effect to any pledge by a debtor either of his person or of his necessities of life, but in view of the strong opposition modified the Bill, which was passed as the Debtors Act of 1888. The provisions of the Act were substantially reproduced in Section 51 of the Code of Civil Procedure of 1908, but imprisonment for debt was abolished in the case of women and the court was also given discretionary powers in the case of other debtors to refuse to issue orders at the wish of the decree-holder and even to issue orders to release the debtor who was unable to pay, but the original purpose of the Bill was never realised.

The Royal Commission on Labour, which investigated the case, realised that the threat of imprisonment was a useful weapon in the hands of the money-lender, although it was not often utilised as the creditor had to support the debtor in prison, and recommended that in the case of industrial workers in receipt of wages of less than Rs. 100 a month, imprisonment for debt should be abolished except where the debtor has been proved to be both able and unwilling to pay.<sup>1</sup>

### *Punjab Relief of Indebtedness Act, 1934*

The first step in relieving a person from imprisonment for debt was, however, undertaken by

<sup>1</sup> *Report of the Royal Commission on Labour in India, p. 232.*

the Punjab Government, which passed the Relief of Indebtedness Act (Punjab Act VII) in 1934. The Act was mainly designed for the protection of agricultural debtors, but also provided that no judgment-debtor should be liable to imprisonment except for a contumacious refusal to pay a sum within his capacity from such property as is liable to attachment in execution of a decree. The Act came into force in April, 1935.<sup>1</sup>

### *Code of Civil Procedure (Amendment) Act, 1936*

In the mean time the Government of India also decided to implement the recommendation of the Royal Commission on Labour. The recommendation of the Commission was naturally confined to wage-workers, as the terms of its reference did not go beyond that, but as the arguments against imprisonment for debt were generally applicable to all classes of debtors, the Government of India broadened its scope and formulated an amending Bill further to amend Section 51 of the Code of Civil Procedure with a view to providing for the prohibition of arrest and imprisonment of all classes of honest debtors. The Bill was introduced into the Legislative Assembly and circulated to local Governments and Administrations for eliciting public opinion thereupon in February, 1935, and finally passed by the Legislature as the Code of

<sup>1</sup> *Bulletins of Indian Industries and Labour*, No 61, p. 13.

Civil Procedure (Amendment) Act (XXI) in October, 1936.<sup>1</sup>

The Act provides, among other things, (1) the amendment of the Civil Procedure Code, 1908, so as to protect honest debtors of all classes, and not of the industrial workers' class only, from detention in a civil prison, and to confine such detention to debtors proved to be recalcitrant or fraudulent; (2) that no order for execution by detention in prison shall be issued unless the debtor has been given an opportunity of showing cause why he should not be committed to prison and the Court is satisfied for reasons recorded in writing (a) that the debtor is likely to abscond or to leave the local limits of the jurisdiction of the Court, or has after the institution of the suit fraudulently transferred his property, and (b) that after the issue of the decree he has acquired means to pay the amount of the decree otherwise than from protected assets, (c) where the debtor is liable in a judiciary capacity; (3) in case a judgment-debtor is brought before the Court in obedience to the notice under Rule 37 or after being arrested, the Court, after hearing the decree-holder, shall give the judgment-debtor an opportunity of showing cause why he should not be committed to prison, and pending

<sup>1</sup> It was passed by the Legislative Assembly and the Council of State on 13th and 15th October, 1936, respectively and was assented to by the Governor-General on 27th October, 1936. Cf. *Legislative Assembly Debates*, 13th October, 1936, and *Council of State Debates*, 15th October, 1936.

the conclusion of an enquiry may, in its discretion, order the judgment-debtor to be detained in the custody of an officer of the court or release him on his furnishing security to the satisfaction of the court for his appearance when required. On the conclusion of the enquiry the court may issue an order for the detention of the judgment-debtor in the civil prison or may direct his release.<sup>1</sup>

### 3. ATTACHMENT OF WAGES REGULATION

The attachment of wages for debt is still another evil from which wage-workers had to suffer. The law under Section 60 of the Code of Civil Procedure, 1908, permitted the attachment of wages for debt and a money-lender could attach the wages of all workers except labourers and domestic servants, but the workers in organised industry are not included in these exceptions.

The Code treated different classes of debtors in respect to attachment in different ways. It firstly permitted the attachment of the whole wages or salaries of other private persons, but only after the wages or salaries had been due and by a decree which in practice nullified its purpose, and secondly exempted from attachment, in the case of Government and Railway servants, first Rs 40 and thereafter half of the salary subject to the minimum of Rs. 40, the remainder being liable to a process

<sup>1</sup> *Gazette of India*, 7th November 1936 Part IV

generally known as continuous attachment. But the allowances, which were less than salary, were totally exempt. In order to realise the money lent, the creditor could secure from the court an order served on the head of the Government department or head of the Railway Administration by which that officer was bound to deduct from the salary payable to the Government or railway servant the proportion specified month by month so that it might be made over to the creditor.

The comparative security of railway service induces many money-lenders to make loans to railway employees and it is said that the level of indebtedness in terms of wages is higher among railway employees than among other classes of wage workers. The Royal Commission on Labour drew attention to this defect and recommended that the wages and salaries of workmen receiving less than Rs. 300 a month should be entirely exempted from attachment.<sup>1</sup> With a view to giving effect to these recommendations, a private Bill was introduced in the Legislative Assembly on 14th March, 1933.<sup>2</sup> The Bill was, however, dropped, and the Government of India introduced a new Bill on 18th February, 1935,<sup>3</sup> further to amend Section 60 of the Code of Civil Procedure, 1908, for certain purposes. The Bill provided that salaries not

<sup>1</sup> *Report of the Royal Commission on Labour in India*, pp. 231-32

<sup>2</sup> *Gazette of India*, 1st April, 1933, Part V.

<sup>3</sup> *Legislative Assembly Debates*, 18th February, 1935, p. 9.

exceeding Rs 100 a month, of all workers should be totally exempt from attachment,<sup>1</sup> and although the Select Committee to which it was referred reduced this maximum to Rs. 60 and made some other changes, the original provisions of the Bill were substantially restored in the Legislative Assembly. The Bill was finally passed in February, 1937, as the Code of Civil Procedure (Second Amendment) Act (IX) of 1937. The Act became applicable to decrees obtained on or after 1st June, 1937.<sup>2</sup>

The chief provisions of the Act are as follows : (1) the wages of labourers and domestic servants, whether payable in money or kind as well as salaries to the extent of the first 100 rupees and one half of the remainder shall be exempt from attachment. (2) The salaries of the servants of Government, railway administrations and local authorities to the extent of the first 100 rupees and one half of the remainder shall be exempt from attachment, but where the attachable portion of such salary has been under attachment, whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment for twelve months, and where such attachment has been made in the execution of one and the same decree, shall be finally exempt from attachment for the execution of the same decree. Moreover, the Governor-

<sup>1</sup> *Gazette of India*, 23rd February, 1935, Part V, p. 2525.

<sup>2</sup> *Gazette of India*, 13th March, 1937, Part IV.



General-in-Council may, by notification in the Gazette of India, declare any attachment forming part of emoluments or any substantial grant or allowance made to an officer or servant while under suspension, exempt from attachment.

#### 4. PROHIBITION OF INTIMIDATION LEGISLATION

Intimidation for the recovery of debt is still another evil which adds to the grievances of industrial workers in India. Instead of taking any legal proceedings for the recovery of the debt, many money-lenders use intimidation, or even violence. On pay day, they wait outside the factory gate to pounce on the debtors as they emerge and, with the permission of employers, sometimes even enter the factory compound to collect the dues before the workers' wages reach their hands. The object in both cases is to ensure that their claim forms the first charge on workers' wages. The ordinary criminal law does not contain any provision making such besetting an offence. The Royal Commission on Labour investigated the question, and recommended that besetting an industrial establishment for the recovery of debts should be made a criminal and cognisable offence, and defined besetting as loitering within the precincts or within the sight of any gate or outlet of the establishment.<sup>1</sup>

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p.

This recommendation of the Commission was incorporated into another private Bill still further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and was introduced into the Legislative Assembly on 24th March, 1933, with a view to making besetting a criminal offence.<sup>1</sup> But before the Bill was proceeded further, the Government of India consulted local Governments and interested public and came to the conclusion that central legislation on the subject was not called for.<sup>2</sup>

### *Bengal Workmen's Protection Act, 1935*

In the meantime some provincial Governments had undertaken legislation for combating the evil effects of besetting. The Government of Bengal, for instance, was strongly in favour of the proposed measures, and at the suggestion of the Government of India, passed an Act, called the Bengal Workmen's Protection Act, to prevent the recovery of debts from certain classes of workmen by besetting their places of work in 1934. It was assented to by the Governor-General on 5th March, 1935.<sup>3</sup>

The main provisions of the Act are the following: (1) whoever loiters in or near any (a) mine, (b) dock, wharf or jetty, (c) railway station or yard, or

<sup>1</sup> *Gazette of India*, 1st April, 1933, Part V, p. 61.

<sup>2</sup> *Legislative Assembly Debates*, 8th February, 1934, pp. 701-03; Government of India: Third Report, 1934, p. 25.

<sup>3</sup> *Calcutta Gazette*, 21st March, 1935, Part III, p. 10.

(d) factory, with a view to recovering any debt from any workmen employed therein shall be punished with imprisonment which may extend to six months, or with fine, or both ; (2) the provisions will apply, in the first instance, to Calcutta and the districts of 24-Perganas, Hooghly and Howrah, but the Local Government, by notification in the Calcutta Gazette, may extend its scope to any other specified area.<sup>1</sup>

### *Central Provinces Protection of Debtors Act, 1937*

A more or less similar action has also been taken by the Central Provinces Government, which passed the Protection of Debtors Act (No. IV)<sup>2</sup> in 1937, with a view to protecting debtors from intimidation and molestation by their creditor for the recovery of debts. The main provisions of the Act are as follows : (1) Molestation is defined to mean obstruction, violence, intimidation, persistent following of the debtor, interfering with debtors' property and loitering at or near his residence or place of work. (2) Penalty for molestation is fixed at simple imprisonment extending to three months or a fine extending to Rs. 500 or at both.

## 5. LIQUIDATION OF DEBT LEGISLATION

Exorbitant rates of interest are still another evil to which most of the wage-workers are subjected.

<sup>1</sup> Bengal Act IV of 1935.

<sup>2</sup> *Central Provinces Gazette*, 12th February, 1937, Part III, pp. 247-48.

The extreme poverty of the masses very often leads them to borrow money even for meeting daily family expenses. Both the scarcity of money in the country and the lack of any feasible means of repayment make money-lenders charge a very high rate of interest. This excessive rate of interest reduces the small income of the workers and affects their standard of living.

The evil effect of workers' indebtedness was fully realised by the Royal Commission on Labour, which recommended that legislation should be enacted providing a summary procedure for the liquidation of workers' unsecured debts:—(a) a Court should be required to estimate the probable income and reasonable expenditure of the worker during the ensuing two years; (b) the amount of the decree issued should be based on the difference between the two sums; (c) it should not be possible to keep the decree alive for more than three years in all; (d) debts should rank preferentially in order of their age; (e) the possibility of appointing special courts for summary liquidation proceedings should be considered, and (f) if necessary, 'industrial workers' may be defined and the operation of the Act may, for the first instance, be restricted to special areas and to workers receiving wages of less than Rs. 100 a month.<sup>1</sup>

The Government of India examined the possibility of introducing experimental legislation of this

<sup>1</sup> *Report of the Royal Commission on Labour*, pp. 232-34.

type applicable to Delhi in the first instance, but the principle of such legislation was found to be contradictory to that of the Attachment of Wages Act and legislative measure was not proceeded with.

*Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936*

In the meantime a private Bill for the purpose of the liquidation of debt was introduced into the Central Provinces Legislative Council but withdrawn at the instance of the Government which had such legislation under consideration. A Bill based upon the scheme prepared for Delhi was in fact introduced by the Government in the Legislative Council in 1935 and was passed in January, 1936, as the Central Provinces Adjustment and Liquidation of Industrial Workers Debt Act (V) of 1936. The Act is applicable to such areas as the local Government may direct and was brought into force on 1st January, 1937.<sup>1</sup>

The Act is applicable to any industrial worker who receives not more than Rs. 50 a month and whose debts exceed his assets plus three months' wages. The court has the right and duty to determine the real extent of the debts after investigating the transactions and reducing usurious rates of interest and, after due consideration of the amount of wages and the number of dependents,

<sup>1</sup> *Bulletins of Indian Industries and Labour*, No. 61, pp. 7.

may determine the amount of payment, which may vary from one sixth to one-third of the wages, as well as the periods, which may extend over 36 months, but in no case shall the aggregate payments of interest exceed the principal of the debt.

## 6 MINIMUM WAGE REGULATION

An important question relating to industrial remuneration is the fixation of minimum wage, especially in a country like India, where labour is cheap and unorganised and workers are not in a position to demand a living wage. The question of fixing minimum wage came under the consideration of the Royal Commission on Labour which recommended that the small industries, e g , *bidi* making, wool cleaning, mica factories, shellac manufacturing and tanning, should be examined by the competent authorities with a view to determining the need and possibility of instituting minimum wage fixing machinery, and if the results of investigation should show its desirability and practicability, the necessary legislation should be undertaken for setting up such machinery. Regarding the plantations in Assam, the Royal Commission went still further and recommended that the establishment of statutory wage fixing machinery in the Assam plantations, if practicable, was desirable and feasible,<sup>1</sup> but before legislation was

<sup>1</sup> *Report of the Royal Commission on Labour in India* p. 214 and 354

undertaken an enquiry should be made as to the most suitable form of machinery, and the tea industry should be invited to co-operate in this enquiry.

With the establishment of provincial autonomy under the new Constitution and the presence of labour representatives in the provincial legislature, the question of fixing minimum wage in Indian industry has been brought before the public, and the minimum Wage Bill is already under consideration in two provinces.

### *Bengal Fixation of Minimum Rates of Wages Bill, 1937*

A non-official Bill, called the Bengal Fixation of Minimum Rates of Wages Bill, was introduced into the Bengal Legislative Assembly on 16th September, 1937. It was argued that the low standard of wages and the existence of sweated rates militated against the prosperity of the province and the health, well-being and happiness of the working classes and that it was a duty of the State to guarantee a minimum living-wage to the workers who were unable to secure it owing to the lack of organisation; a minimum wage Act was, therefore, necessary in India in the interest of both the workers and the nation.

The main provisions of the Bill are as follows :<sup>1</sup>  
(1) the setting-up in each district or subdivision of

<sup>1</sup> *Calcutta Gazette*, 18th November, 1937, Part IV A, pp. 38.

a joint board consisting of an equal number of employers' and workers' representatives for the purpose of fixing minimum rates of payment to workmen employed in factories and mines as defined by the law; (2) in the case of other industries, joint boards shall also be established for a district or subdivision or for a particular industry, trade, occupation, agriculture, or service for the purpose of fixing minimum rates of wages, keeping in view the prevailing rates of wages, cost of living, and the necessity of providing a living wage.

### *Orissa Minimum Wage Bill, 1938*

A non-official Bill, called the Fixation of Minimum Rates of Wages Bill, was introduced into the Legislative Assembly of Orissa on 28th January, 1938, with a view to providing for the fixation of minimum rates of wages in the province. The main provisions of the Bill are similar to those of the Bengal Bill and as follows: ' (1) The setting-up, in each district or subdivision, of joint Boards consisting of an equal number of employers' and workers' representatives for the purpose of fixing minimum rates of payment to workmen in factories and mines as defined by the law. The rate of wages shall in no case be less than Rs. 20 a month, but this rate may be varied if desired by the majority of seven-eighths of the workers of an undertaking in agreement with



employer. (2) In the case of undertakings outside the Factories and Mines Acts, joint boards shall be established for each district or subdivision for a particular industry, trade, occupation, agriculture or service for the purpose of fixing minimum rates of wages, keeping in view the prevailing rates of wages, cost of living and the necessity of providing a living wage.

## 7. PAID HOLIDAY REGULATION

Another important series of measures proposed for the benefit of workers in India is holiday with pay. The principles of paid holidays has long been established in India not only in the case of Government employees, but also in the case of employees of many private undertakings. But it was the adoption by the International Labour Conference of the draft Convention on holidays with pay in 1936 (No. 52) that made the question of granting paid holidays to workers a live issue. The Government of India expressed its views on the question in a letter to provincial Governments and Administrations on 14th June, 1937, observing on the soundness of its principle.<sup>1</sup>

### *Bombay Annual Leave Bill, 1938*

A non-official Bill, called the Bombay Annual Leave Bill, was introduced in the Legislative Council.

<sup>1</sup> Government of India, No. L. 1831, 14th June,

cil on 17th January, 1938, to provide for the granting of annual leave to certain classes of workmen by their employers. The main provisions of the Bill are as follows:<sup>1</sup> (1) annual leave is defined to be "leave with pay" other than leave on half-pay or without pay due to sickness, convalescence, accident or any other cause; (2) every workman is entitled to leave for a minimum period of 30 days unless he is entitled to a longer period under the existing conditions, during an employment year, which may be granted either in a single period or instalment of not less than 5 days each; (3) the taking of annual leave is obligatory upon each workman; and (4) the workman is entitled to full pay during the period of leave.

<sup>1</sup> Bombay Legislative Council Bill, No. 11 of 1938.

## CHAPTER VIII

### SOCIAL INSURANCE LEGISLATION

Next to protection of wages, the most important series of legislative measures in modern industry is that of social insurance or economic security against accident, invalidity, old age, unemployment, widowhood, and orphanage. Social insurance in India is, however, represented only by such measures as those relating to workmen's compensation and maternity benefit.

#### 1. WORKMEN'S COMPENSATION LEGISLATION

The demand for compensation in the case of fatal or serious accidents was made by industrial workers as early as 1884.<sup>1</sup> The importance of enacting legislation for compensation was also realised by factory and mine inspectors as a method of creating a greater sense of responsibility among employers and thus of securing more adequate provision for security. The first step in this direction was taken in 1922, when an Amending Factories Act gave powers to the Court to pay compensation to injured persons out of fines imposed upon employers.<sup>2</sup>

<sup>1</sup> Great Britain: *Parliamentary Papers*, 1890-91, Vol. 59. House of Commons, 86, p. 110.

<sup>2</sup> Indian Factories (Amendment) Act (XII) of 1922.

*Workmen's Compensation Act, 1923*

In the meantime the Government of India had decided to enact legislation for workmen's compensation and made an announcement to that effect in May, 1920, addressing the local Governments on the subject in July, 1921. The advisability of legislation for compensation was accepted by the majority of local Governments and of employers' and workers' associations, but it was also realised that the proposal involved several difficulties such as the migratory character of Indian labour, the comparative paucity of medical and insurance facilities, and the prevailing habit of litigation among the people. In June, 1922, a committee consisting of the representatives of the Central Legislature, employers, employees and medical service and insurance companies was convened to consider the question, and a Bill was drawn up on their recommendations.<sup>1</sup> The Bill as introduced into the Legislative Assembly on 13th September, 1922, contained two distinct proposals, namely: (1) modification in the ordinary civil law, affecting the liability of employers; and (2) provision for workmen's compensation and machinery for dealing with claims. But the Joint Select Committee of both Chambers of the Legislature on the Bill eliminated the provisions regarding employers'

<sup>1</sup> A. G. Clow, *The State and Industry*, p. 154-57. The *Workmen's Compensation Act* (VIII) of 1923.

liability. The Bill was passed in February, 1923, as the Workmen's Compensation Act (VIII) of 1923, and slightly amended on 1st July, 1924;<sup>1</sup> the Act came into force on the same day.

By this Act certain classes of employers are made liable to pay compensation for accidents arising out and in the course of employment and resulting in death or total or partial disablement of a workman for a period exceeding 10 days. In addition to accidents, compensation is payable for such occupational diseases as (a) lead or phosphorous poisoning and sequelae; a worker must, however, be employed for a continuous period of six months in order to be entitled to compensation in such cases; and (b) anthrax infection in the case of the workers who are employed in any employment involving the handling of wool, hair, bristles, hides and skins. Industries and occupations covered by this Act are enumerated, and amounts of compensation to be paid to each group are laid down. Provisions are made for the appointment by local Governments of commissioners either for the part or whole time, for each local area for the settlement of the questions arising in any proceedings under the Act. The Government of India is granted power to include, by due notification, any other classes of workmen who are employed in occupations declared to be hazardous

<sup>1</sup> *Labour Gazette*, March, 1924, p. 23.

and also to add to the list of occupational diseases. It was estimated that about 3 million workers in different industries and occupations were covered by this Act.

In 1925 the International Labour Conference adopted, at its Seventh Session, a Draft Convention concerning Workmen's Compensation for Occupational Diseases. The Government of India ratified the Convention and, with a view to bringing the Indian law into conformity with it, amended the Indian Workmen's Compensation Act of 1923, making necessary changes in the list of occupational diseases in 1926.<sup>1</sup> On 28th September, 1926, the Government of India added, under notification, mercury poisoning to the list of occupational diseases.<sup>2</sup> The Act was again amended in 1929 for effecting certain changes of a non-controversial character.<sup>3</sup> On 12th February, 1931, the Governor-General in Council extended, under notification, the Act to cover all persons engaged in constructing, maintaining, altering or repairing aerial ropeways.<sup>4</sup> The number of workers covered by the Act as amended since 1923 amounted to about 4 millions.

<sup>1</sup> The Workmen's Compensation (Amendment) Act of 1926, Workmen's Compensation Statistics, 1926.

<sup>2</sup> Gazette of India, the 29th May, 1926, Part I, p. 63.

<sup>3</sup> Gazette of India, the 11th April, 1929, Part IV, p. 7, Workmen's Compensation Statistics, 1929, p. 3, Labour Gazette April 1929, pp. 722-34.

<sup>4</sup> Labour Gazette, March, 1931, p. 346.

*Workmen's Compensation (Amendment) Act,  
1933*

Although amended and extended, the Workmen's Compensation Act, which was in fact an experimental measure, was found to be inadequate. In 1928 the Government of India referred to the local Governments and Administrations certain proposals involving modification in the principles underlying the Act and inviting suggestions for its improvement. The Royal Commission on Labour, which was soon appointed, studied the question in the light of the replies of the local Governments and the proposals of the Central Government, as well as further evidence which it collected all over the country, and recommended that the Workmen's Compensation Act should be extended to cover as completely as possible workmen in all branches of organised industry, whether hazardous or not, and that there should be a gradual extension to workers in less organised employment, beginning with those who are subjected to most risk. Among the other recommendations of the Commission the most important are those for the extension of the scope of the Act to new industries and occupations, the addition of new occupational diseases, the increase in the scale of benefits, and the administration of the Act by specially qualified commissioners.<sup>1</sup>

<sup>1</sup> *Report of the Royal Commission on Labour in*  
315.

The Royal Commission also recommended that the Government of India should take steps so that the agreement to pay compensation in accordance with the Indian Workmen's Compensation Act becomes obligatory on the part of all shipowners engaging Indian seamen, and dependants may be entitled to force this agreement.<sup>1</sup> This proposal involved an amendment of the Indian Merchant Shipping Act, 1923, and the Government of India decided to defer its consideration pending the reform of the Constitution.<sup>2</sup> On the basis of these recommendations, the Government of India passed the Workmen's Compensation (Amendment) Act in 1933, which came into force partly on 1st January and partly on 1st July, 1934.<sup>3</sup>

The most important provisions of the amending Act are as follows:<sup>4</sup> (1) The scope of the Act has been extended to include new industries and occupations and also new occupational diseases such as poisoning by benzene and its homologues, chrome ulceration and its sequelae and compressed air illness and its sequelae. (2) The scale of benefit has been increased and the number of wage classes has been raised from 14 to 17. Whereas formerly compensation

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 200.

<sup>2</sup> *Government of India Third Report, 1934*, p. 63.

<sup>3</sup> *Gazette of India*, 20th February, 1933, Part V, pp. 3683. *Legislative Assembly Debates*, 25th August, 1933, *Council of State Debates*, 30th September, 1933.

<sup>4</sup> *Gazette of India*, 16th September, 1933, Part IV.



for fatal accidents ranged from Rs. 240 to Rs. 2,500, under the amended Act it ranges from Rs. 500 to Rs. 4,000. In the case of permanent total disablement, the minimum compensation has been raised from Rs. 336 to Rs. 700 and the maximum from Rs. 3,500 to Rs. 5,600. The rates of compensation for temporary disablement have also been increased especially among the lower wage classes. Moreover, there has been an increase in the compensation for minors.<sup>1</sup> (3) The waiting period (during which temporarily disabled person received no compensation) has been reduced from 10 to 7 days. (4) Widows, daughters and sisters have been included among the list of dependants for compensation, (5) Provisions have been made for the better administration of the Act. (6) The Governor-General in Council has been given power to arrange for the transfer of compensation to a foreign country in the case of a person residing abroad, and also for the administration of compensation awarded under the law of a foreign country for the benefit of a person residing in British India.

By notification on 26th July, 1934, the Government of India has also declared under section 2 (3) of the Act several occupations in forestry, e.g., the felling and logging of trees and transport of lumber by inland water, to be hazardous and

<sup>1</sup> *Gazette of India*, 16th September, 1933, Part IV.

provincial Governments for opinions and criticisms on the question, the Government of India formulated an amending Bill and introduced it into the Legislative Assembly on 23rd August, 1937, further to amend the Workmen's Compensation Act, 1923.<sup>1</sup> The Bill was referred to a Select Committee on 7th April, 1937, taken up for consideration by the Legislative Assembly on 3rd March, 1938, and finally passed on 5th April, 1938, as Act No IX of 1938.<sup>2</sup> The chief provisions of the amending Act are as follows:—<sup>3</sup>

(1) The scope of the Act is somewhat enlarged to cover liftmen and men employed in tapping palm trees and in hunting wild animals. A distinction is made between occupational diseases contracted *quickly* or *gradually*, and the qualifying period of six months' service as condition for compensation is retained only in the latter case. Poison by nitrous fumes as well as a few other occupational diseases, some of which have already been brought under the Act by notification, are added to the Schedule.

(2) The period within which a claim for compensation with respect to an accident may be

<sup>1</sup> *Gazette of India*, 25th August, 1937, Part V.

<sup>2</sup> The Bill was passed by the Legislative Assembly on 4th March, 1938 and by the Council of State on 14th March, and assented to by the Governor General on 5th April, 1938.

*Cf. Legislative Assembly Debates*, 7th April, 1937, 3rd 4th March, 1938. *Council of State Debates*, 23rd March, 1938.

<sup>3</sup> *Gazette of India*, 9th April, 1938 Part IV, pp. 123-29

preferred is extended from six months to a year to accord with the general period of limitation in action for torts.

(3) Minor amendments are also made (a) against the aggravation of injuries arising from neglect on the part of the workman, and also (b) requiring a person other than a legal practitioner, or life insurance agent, or registered trade union officer, to have the permission of the commissioner to appear on behalf of an injured person, or his beneficiary.

The chief provisions of the Act, as brought up to 5th April, 1938, are as follows :

*Scope of the Act* :—The Workmen's Compensation Act of 1923 as amended in 1933 and modified in 1937 covers the following organised or semi-organised industries such as : (1) factories (including those using power machinery and employing 10 persons or more and also those not using power machinery but employing 50 persons or more); (2) mines; (3) plantations (cinchona, coffee, rubber, etc.) employing 25 persons or more; (4) shipping; (5) the loading and unloading of ships; (6) shipbuilding; (7) building of houses (more than one storey high); (8) construction of roads and highways; (9) a lift or vehicle propelled by steam or other mechanical power or electricity; (10) manufacture and handling of explosives; (11) generation of gas and electricity; (12) production and exhibition of cinematographical pictures;

(13) keeping of elephants and other wild animals; (14) tapping of palm trees or the felling and logging of trees, (15) transport of labour by inland waterways, (16) control or extinction of forest fire, (17) operations in connection with the catching and hunting of elephants or other wild animals, and (18) handling or transporting goods in warehouses and markets. Among the accidents are also included a few occupational diseases such as (1) anthrax, (2) lead, phosphorus, mercury, benzene and nitrous fumes poisoning, (3) chrome ulceration, (4) compressed air illness, (5) arsenic poisoning, and (6) pathological manifestations due to (a) radium and other radio-active substances, and (b) X-rays, and (7) primary epitheliomatous cancer of the skin.

*Title to Compensation* — Any workman who is employed either by way of manual labour or on monthly wages not exceeding Rs 300 and coming within the scope of the Act is entitled to compensation from his employer in the case of personal injury caused by accident (including occupational diseases) arising out of and in the course of the employment, provided that the incapacity lasts for more than 7 days and that the injury is not caused by the fault of the workman, i.e., due to the influence of drink or drugs, wilful disobedience to an order expressly given or to a rule expressly framed to ensure safety, and wilful removal or disregard of the safety appliances.

In the case of fatal accident, the beneficiary for compensation will be the dependant who may be any of the following relatives of a deceased workman, namely: (1) a widow, a minor son, unmarried legitimate daughter or a widowed mother; and (2) if wholly or partially dependent upon the earnings of a workman at the time of his death, a widower or parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and minor, if widowed, a minor brother, an unmarried or widowed sister, a widowed sister-in-law, a widowed daughter-in-law, a minor child of a deceased son, a minor child of a deceased daughter where no parent of the child is alive, or where no parent of the workman is alive, and paternal grandparent.

*Amount of Compensation* :—For the purpose of compensation, accidents are classed under three headings, namely (1) fatal or causing death, (2) permanent total or partial disablement and (3) temporary total or partial disablement; and children under 15 years of age are regarded as minors. The amount of payment is determined by the rates of wages as classified under 17 categories ranging from a minimum of Rs. 10 a month or less to a maximum limit of Rs. 200 or more, as shown in the table below. The scales may be classified under the following three headings, namely :—

(13) keeping of elephants ;  
 (14) tapping of palm ;  
 logging of trees ; (15) trade  
 waterways ; (16) control  
 (17) operations in coal  
 hunting of elephants  
 (18) handling of  
 and markets.

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(3) In the case of

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the death of a minor at Rs.

of an adult it varies

according to variation of

*Compensation payable in Certain Cases*

Actual monthly wages.		Compensation.			
		Lump sums.		Half-monthly payments during temporary incapacity.	
		Death.	Permanent total incapacity.		
More than	But not more than	Rs.	Rs.	Rs.	A.
Rs.	Rs.			(Half the monthly wages	
0	10	500	700	5	0
10	15	550	770	6	0
15	18	600	840	7	0
18	21	630	882	8	0
21	24	720	1,008	8	8
24	27	810	1,134	9	0
27	30	900	1,260	9	8
30	35	1,050	1,470	10	0
35	40	1,200	1,680	11	4
40	45	1,350	1,890	12	8
45	50	1,500	2,100	15	0
50	60	1,800	2,520	17	8
60	70	2,100	2,940	20	0
70	80	2,400	3,360	25	0
80	100	3,000	4,200	30	0
100	200	3,500	4,900	30	0
200	—	4,000	5,600	30	0

*Administration of the Law*

The Workmen's Compensation Act, as passed by the Government of India in 1923 and thoroughly revised in 1933, granted wide powers to the Governor-General in Council for the extension of the scope of the Act and for making rules in order

(1) In the case of temporary disablement, compensation is payable half-monthly, (a) at one-half of the monthly wages, subject to a maximum of Rs. 30, to a minor, and (b) at a rate varying from full wages in the lowest wage classes to a maximum of Rs. 30 in other wage classes to an adult. No compensation is payable for the first seven days of disablement and the maximum period for compensation for temporary disablement is five years ;

(2) In case of permanent disablement, compensation is payable in the form of a lump sum, from which is deducted any payment which might have been paid during temporary disablement. Where the disablement is total, the compensation is fixed at Rs. 1,200 for a minor, and varies from Rs. 700 to Rs. 5,600 according to wage rates, for an adult. Where disablement is partial, the compensation is paid on a scale proportionate to the loss of earning capacity ;

(3) In the case of death, compensation is payable in the form of a lump sum, and is fixed for the death of a minor at Rs. 200 but that for the death of an adult it varies from Rs. 500 to Rs. 4,000, according to variation of the wage rate.



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		Lump sums.		Half-monthly payments during temporary incapacity.	
		Death.	Permanent total incapacity.		
More than	But not more than	Rs.	Rs.	Rs.	A.
Rs.	Rs.			(Half the monthly wages)	
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10	15	550	770	6	0
15	18	600	840	7	0
18	21	630	882	8	0
21	24	720	1,008	8	8
24	27	810	1,134	9	0
27	30	900	1,260	9	8
30	35	1,050	1,470	10	0
35	40	1,200	1,680	11	4
40	45	1,350	1,890	12	8
45	50	1,500	2,100	15	0
50	60	1,800	2,520	17	8
60	70	2,100	2,940	20	0
70	80	2,400	3,360	25	0
80	100	3,000	4,200	30	0
100	200	3,500	4,900	30	0
200	—	4,000	5,600	30	0

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		Death.	Permanent total incapacity.		
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30	35	1,050	1,470	10	0
35	40	1,200	1,680	11	4
40	45	1,350	1,890	12	8
45	50	1,500	2,100	15	0
50	60	1,800	2,520	17	8
60	70	2,100	2,940	20	0
70	80	2,400	3,360	25	0
80	100	3,000	4,200	30	0
100	200	3,500	4,900	30	0
200	—	4,000	5,600		

*Administration of the Law*

The Workmen's Compensation Act, as passed by the Government of India in 1923 and thoroughly revised in 1933, granted wide powers to the Governor-General in Council for the extension of the scope of the Act and for making rules in c

to give effect to the provisions of the Act. But in pursuance of the constitutional changes introduced by the Government of India Act of 1935 and the establishment of provincial autonomy on 1st April, 1937, the Government of India transferred by Order (Adaptation of Indian Laws, 1937) all the powers vested in the Government of India by the Workmen's Compensation Act, such as, (1) the power to add by notification new classes of workers; and (2) the power to schedule additional industrial diseases, and (3) the power to make rules governing procedure.<sup>1</sup>

Besides the above powers transferred by the Government of India, provincial Governments have from the very beginning been granted powers to make rules regarding the scale of cost and fees in proceedings, to appoint any persons to be commissioners for specified areas and to determine the procedure of their work. The whole-time commissioners are appointed for large industrial centres and judges of Small Causes Courts as *ex-officio* commissioners for the smaller places.

The actual administration of the law is entrusted to the commissioners who are deemed to be public servants within the meaning of the Indian Penal Code and have also the powers of a civil court under the Code of Civil Procedure, 1908, for the

<sup>1</sup> Bulletin of Indian Industries and Labour, Dec. 61, pp. 44-47

purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and material objects. A commissioner may choose one or more persons possessing special knowledge of any matter, to assist him in holding an enquiry and may, if he thinks fit, submit any question of law for the decision of the High Court. An appeal shall also lie to the High Court from some orders of the commissioner.

If any question arises in any proceedings under the Act as to the liability of any person to pay compensation or as to the amount or duration of compensation, the question shall, in default of agreement, be settled by the commissioner. The duties of the commissioner are thus various, such as the settlement of claims to compensation not settled by agreement, registration of agreements, revision of periodical payments, and apportionment of compensation to the dependants of a deceased person.

The Workmen's Compensation Act came into force on 1st July, 1924, and the data for the working of the Act for a full year became available only in 1925. Since then, there have been variations in the number of cases of accidents and also the amount of compensation paid as shown in the table below. The largest increase of accidents took place in the cases of temporary disablement due to the increasing desire on the part of workmen to register minor accidents in the expectation of compensation, which they had neglected before the

enactment of the Act. The cases of accidents arising out of industrial occupations are very few in number, and the number of accidents to minors is also very small, being only 30 cases, including two deaths, one permanent disablement and 27 temporary disablement in 1936, indicating that only a small number of children are employed in organised industry and dangerous occupations. The number of cases of industrial diseases is also small. In 1936, for instance, there were only eight cases of compensation for lead poisoning, although more cases actually occurred than those which were reported.

*Cases of Compensation for Industrial Accidents in British India 1924-1936<sup>1</sup>*

Year.	Cases				Compensation.	
	Death.	Permanent disablement.	Temporary disablement	Total number.	Total amount Rs.	Amount per case Rs.
1924 <sup>2</sup>	251	99	3,318	4,168	150,224	34
1925	590	633	10,143	11,371	644,120	56
1926	661	836	12,696	14,066	821,476	58
1927	783	978	13,455	15,216	1,111,254	73
1928	828	1,113	14,827	16,764	1,093,730	65
1929	883	1,345	16,632	18,860	1,260,164	67
1930	871	1,424	21,279	23,574	1,246,764	53
1931	699	1,271	15,519	17,489	1,066,306	61
1932	601	1,163	12,552	14,316	823,146	57
1933	526	1,037	12,906	14,559	913,917	62
1934	598	1,287	15,605	16,890	868,517	51.4
1935	696	1,279	21,024	22,999	1,161,463	50.5
1936	1,038	1,540	25,932	28,510	1,464,150	51.5

<sup>1</sup> Compiled from Workmen's Compensation Statutes for the respective years.

<sup>2</sup> Six months only (July to December).

In most of the cases the workmen's claims are settled through agreement. The number of applications to commissioners for settlement is rather small, and amounted to only 918, that for the distribution of compensation to 1,350, and the percentage of contested cases to the total number disposed of by the commissioner was 59 in 1936.

There has been a lack of adequate knowledge on the part of the workmen regarding legal rights in claiming compensation, but this difficulty is being gradually overcome. In some localities, the trades unions are helping the workmen to obtain compensation, especially in Ahmedabad, Bombay and Calcutta. Settlement of claims is facilitated by the existence of Claims Bureaux in Calcutta which handle most of the insured employers' cases, and also by insurance companies in Bombay, which represented employers in about 58 per cent. of cases in 1936.

## 2. MATERNITY BENEFIT LEGISLATION

The next important series of social insurance measures in India relate to maternity benefit, but it is a subject which, as a welfare measure, has been relegated to provincial Governments. The importance of granting rest and benefit to expectant mothers was brought home to the Indian public by the International Labour Conference which adopted a Draft Convention to that effect in 1919.

India was absolved from the ratification of this Convention, but she was asked to make enquiries into the matter.<sup>1</sup> Accordingly, the Government of India made a report to the International Labour Conference in 1921 showing the difficulties in the way of ratifying the Convention, chief among them being the migratory habit of Indian women workers and their custom of going home before confinement, and the shortage of medical women who would be necessary for issuing medical certificates.<sup>2</sup>

Enquiries into the conditions of woman labour on this subject were made by the Governments of Bombay and Bengal. Following the suggestions put forward in the Legislative Assembly, the Government of India in June, 1924, made further enquiries regarding the extent to which maternity benefit schemes were in force in India. It was found that schemes for maternity benefit existed only in some isolated industries. Most of the large tea gardens in Assam and Bengal had adopted this system, but in Madras and the Central Provinces its operation was limited to a few establishments, and only a few Bombay factories had any elaborate system of maternity benefit. There were no maternity benefit schemes in the mines and factories of Bengal, Bihar and

<sup>1</sup> *Report of the International Labour Conference, 1919* L.N. 173, 245.

<sup>2</sup> *Report of the International Labour Conference, 1921* Part II, pp. 1124-25.



Orissa, the Punjab and Burma. So far as Government servants were concerned, the rules framed by the Government of India provided for the grant on full pay of maternity leave up to a maximum of three months, including six weeks after confinement.<sup>1</sup>

In 1924, a private Bill was introduced into the Legislative Assembly to prevent the employment of women in factories, mines, certain tea estates, immediately before and after confinement, and to grant benefits during the period. The Government of India, however, opposed the Bill on the ground that the necessity for such a measure was not yet established, that the principle of the Bill was questionable, and that the results of the measure might be harmful to women workers.<sup>2</sup>

### *Recommendations of the Royal Commission*

The refusal of the Central Government to pass the Maternity Benefit Bill led the provincial Governments to take up the question and a Maternity Benefit Act was passed by the Government of Bombay in 1929 and by the Central Provinces in 1930. The Royal Commission on Labour, which was appointed about this time, discussed the question of maternity benefit and pointed out that the time was ripe for the introduc-

<sup>1</sup> Government of India: *Bulletins of Indian Industries and Labour*, No. 32, *Indian Maternity Benefit Schemes*, pp. 1-21.

<sup>2</sup> A. G. Clow, *The State and Industry*, p. 163.

tion of legislation throughout India making maternity benefit scheme compulsory in respect of women permanently employed in non-seasonal factories covered by the Factories Act, and on the lines of the schemes operating in the Bombay Presidency and the Central Provinces. The entire cost of benefit should at first be borne by the employers, but in case any general scheme of social insurance was adopted, maternity benefits should be incorporated and the cost shared by the State, the employer and the worker. The rate of benefit given by the Central Provinces Act is suitable for general application. The maximum period should be four weeks before and four weeks after childbirth. The qualifying period should in no case be less than nine months, and might be fixed at 12 months. The administration of the Act should be entrusted to the factory inspection staff and, whenever possible, to women factory inspectors.<sup>1</sup>

Although the Commission did not see any necessity for extending these schemes to women employed in seasonal factories, mines and docks, as the number of women in these was not sufficient to justify such a step, they realised the necessity for legislative compulsion to secure a general adoption of a satisfactory scheme by plantations. The cash benefit to the mother should ordinarily

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 612.

take the form of half her daily wage for a period of four weeks before and four weeks after childbirth. In addition, a bonus of Rs. 5 should be given except where the woman refuses to avail herself of the skilled services of a woman doctor or a midwife provided by the employer. Moreover, the condition of a qualifying period of employment should be dispensed with.

### *Bombay Maternity Benefit Act, 1929*

Reference has already been made to the enactment of the Maternity Benefit Act by the Government of Bombay in 1929. A resolution to that effect was moved in the Legislative Council on 30th July, 1924, and a private bill was introduced in 1928, but it was not until 15th March, 1929, that the bill was finally passed as the Bombay Maternity Benefit Act (VIII) of 1929.<sup>1</sup> The Act was brought into force on 1st July, 1929. By this Act a woman employed in a factory was entitled to the payment of maternity benefit at the rate of 8 annas a day after she had been in the factory of an employer from whom she claimed benefit for at least six months. The maximum period of benefit was fixed at 7 weeks, 3 weeks immediately before and 4 weeks immediately after her confinement.

Following the recommendation of the Royal Commission on Labour and in the light of past

<sup>1</sup> Government of Bombay *Memcrandum to the Royal Commission of Labour*, p. 54.

experience, the Act of 1929 was amended by the Maternity Benefit (Amendment) Act 1934.<sup>1</sup> The most important amendments are as follows: (1) wages are defined to include money value of any earned grain concession, but not the bonus given for regular attendance, (2) the scale of payment is fixed at 8 annas a day in the cities of Bombay, Ahmedabad and Karachi and elsewhere at the rate of her average daily wages calculated on the total wages during three months preceding the date of her giving notice or at the rate of 8 annas a day, whichever is less, (3) the period of benefit was raised from 7 to 8 weeks, that is 4 weeks immediately before and 4 weeks immediately following the confinement, and (4) the qualifying period was raised from six to nine months of service in the factory of the employer from whom she claimed her benefit.

By notification on 27th September, 1937, the Government of Bombay extended the Maternity Benefit Act of 1929 to the districts of Ahmedabad, Poona, Bijapur and Kolaba.<sup>2</sup>

### *Central Provinces Maternity Benefit Act, 1930*

Reference has also been made to the enactment of the Maternity Benefit Act by the Central Provinces Government in 1930. The Central Provinces followed the Bombay Presidency and passed its

<sup>1</sup> Bombay Act No. XIV of 1934.

<sup>2</sup> Bombay Government Gazette, 25th September, 1937.

Maternity Benefit Act (VI) in 1930<sup>1</sup> to make provision for absence from work during the advanced state of pregnancy and to regulate the employment of women some time before and after confinement and for the payment of maternity benefit to women workers of the factories in the province during such periods. The chief provisions of the Act are as follows : (1) women are entitled to the payment of maternity benefit at the rate of their daily average earnings calculated on the total wages earned during a period of three months preceding the date of their confinement, or at the rate of 8 annas a day, whichever is less ; (2) the maximum period of benefit is fixed at 8 weeks, 4 weeks immediately before and 4 weeks immediately after the confinement. The qualifying period of service in the factory of the employer from whom benefit is claimed is fixed at nine months. The Act was brought into force on 1st January, 1938. The Act of 1930 was amended by the Maternity Benefit (Amendment) Act (XXII) of 1935. The amendments were mostly of a formal character and were designed to bring the original Act into conforming with the Indian Factories Act of 1934.<sup>2</sup>

### *Madras Maternity Benefit Act, 1935*

With a view to implementing the recommendations of the Royal Commission on Labour and

<sup>1</sup> Central Provinces Act, No. VI of 1930.

<sup>2</sup> *Bulletins of Indian Industries and Labour*, No. 61, p. 21,

following the examples of Bombay and the Central Provinces, Madras has also undertaken maternity benefit legislation. A private Bill was introduced into the Legislative Council "to prevent the employment of women in factories for some time before and some time after confinement and to provide for the payment of maternity benefit to them." The Bill was passed in 1935 as the Maternity Benefit Act (VI) of Madras Government<sup>1</sup> and was brought into force on 1st April, 1935. The chief provisions of the Act are as follows: (1) women employed in non-seasonal factories are entitled to the payment of maternity benefit at the rate of 8 annas a day; (2) the maximum period of benefit is 7 weeks; and (3) the qualifying period of service in the factory of the employer from whom he claims hire benefit is 9 months.

### *Maternity Benefit Measures in Ajmer-Merwara and Delhi*<sup>2</sup>

Besides these three major provinces, i.e., Bombay, the Central Provinces and Madras, the maternity benefit measures have also been introduced into the minor provinces of Ajmer-Merwara and Delhi. With the sole exception of Coorg, these minor provinces have no legislative bodies and Chief Commissioners, who are the immediate heads

<sup>1</sup> Statutes Act No. VI of 1935

<sup>2</sup> Bulletin of Indian Industries and Labour, No. 61, p. 21

of these provinces, act merely as agents of the Governor-General. Both the legislation and the administration of these provinces are in fact under the direct control of the Government of India.

In 1933, the Chief Commissioner of Ajmer-Merwara, using the powers conferred upon him by the Schedule Districts Act, extended the Bombay Maternity Benefit Act, 1929, to that province with the following important modifications: (1) the scope of the Act was restricted to only perennial factories employing not less than 50 women workers; (2) the period of benefit was restricted to 6 weeks; (3) the qualifying period for the benefit was raised to 12 months; and (4) the rate of benefit was reduced on the lines subsequently adopted by the amending Act.

Under Section 7 of the Delhi Laws Act, 1912, the Government of India issued, in November, 1936, a notification empowering the Chief Commissioner of Delhi to apply the Bombay Maternity Benefit Act, 1929, with certain formal modifications to the province of Delhi. The Chief Commissioner brought the Act, so notified, into force on 1st January, 1937.

### *United Provinces Maternity Benefit Act, 1938<sup>1</sup>*

The Government of the United Provinces introduced the United Provinces Maternity Benefit

<sup>1</sup> *United Provinces Gazette Extraordinary*, 12th January, 1938,

Bill into the Legislative Assembly on 18th January, 1938. The Bill was passed by the Assembly on the 26th April, and by the Council on 10th May, 1938. The provisions of the Bill were based upon those of the Bombay Maternity Benefit Act. The main provisions are as follows (1) all women employed in a factory employing ten persons or more are entitled to the payment of benefit, (2) the qualifying period of service for receiving the benefit is reduced to six months, and (3) leave with pay for two weeks in case of miscarriage shall also be granted. The other features of the provisions are the same as in the case of Bombay.

### *Bengal Maternity Benefit Bill, 1937*

In pursuance of the recommendation of the Royal Commission on Labour, the Government of Bengal also decided to undertake legislation for making compulsory grant of maternity benefit to women employed in perennial factories and after examining the provisions of the maternity benefit Acts of Bombay and the Central Provinces, drafted a Maternity Benefit Bill in 1936 and circulated it for the opinions and criticisms of the interests concerned.<sup>1</sup> The Bill was introduced into the

p. 13-17 6th April 1938. See also *Hindustan Times* 20th April 1938 and *Leader*, 25th May 1938.

At the time of writing the Bill has not yet received the sanction of the Governor but for all purposes it has been assumed to be an Act.

<sup>1</sup> *Calcutta Gazette*, 1st August 1937 Part IV, p. 14.



Legislative Assembly on 30th September, 1937, and referred to a Select Committee on the same day.

### *Chief Provisions of the Acts*

From the above it is clear that the Maternity Benefit Acts have been passed by 4 major provinces, *viz.*, Bombay, Madras, the Central Provinces and the United Provinces, and also that the Bombay Maternity Benefit Act has, with some modifications, been extended to Ajmer-Merwara and Delhi. The most important provisions of these Acts are the following :—

*Title to Benefit :—*Every woman employed in a factory, whether perennial or seasonal, in the Presidency of Bombay, the Central Provinces and Berar, the United Provinces and Delhi, and in a perennial factory in Madras and Ajmer-Merwara, is entitled to maternity benefit from her employer ; the United Provinces apply it even to a factory employing 10 persons or more. No employer shall knowingly employ, and no woman shall work, in a factory during the four weeks immediately following the day of her confinement,<sup>1</sup> but she must be in the service of the employer from whom she claims benefit for 9 months in all the provinces except in the United Provinces where it is 6 months and also in Ajmer-Merwara, where it is 12 months,

<sup>1</sup> The Madras Maternity Benefit Act does not prohibit a woman from employment following the day of her confinement.

and she must not work in any other place during the period of her benefit. Moreover, she cannot be discharged from her employment within the period during which she is entitled to her benefit.

*Period of Benefit* :—The maximum period for which the benefit is available is 8 weeks in Bombay, the Central Provinces and the United Provinces, 7 weeks in Madras and Delhi and 6 weeks in Ajmer-Merwara, i.e., 4 or 3 weeks immediately before and 4 or 3 weeks immediately after the birth of the child; if a woman dies during this period, the maternity benefit shall be payable for the period up to and including the day of her death.

*Amount of Benefit* :—The amount of benefit is 8 annas a day in the Madras Presidency and Ajmer-Merwara as well as in the cities of Bombay, Ahmedabad and Karachi in the Bombay Presidency; in the rest of the Bombay Presidency, in the Central Provinces, in the United Provinces and in Delhi, the benefit is at the average rate of the woman's daily earnings calculated on the wages earned during a period of 3 months preceding the day on which she is entitled to receive the benefit, or at the rate of 8 annas a day, whichever is less.

*Methods of Payment* :—The methods of payment differ somewhat in these provinces. The Bombay Maternity Benefit Act of 1929, as amended in 1934, provides that maternity benefit shall be paid by the employer to the woman entitled thereto after

taking her wishes into consideration in any of the following three ways :

(i) For 4 weeks within 48 hours of the production of a certificate from a registered medical practitioner of the expectancy of her confinement within a month and the remainder of the total period within 48 hours of the production of a certified extract from a birth register of the birth of her child ; or

(ii) for the period up to and including the day of delivery within 48 hours of the production of the certified extract from a birth register of the birth of her child and for the remainder of the period punctually 4 weeks after the production of such certified extract from a birth register ; or

(iii) for the entire period within 48 hours of the production within 6 weeks of her delivery of a certified extract from a birth register. In case of death of the woman during this period, the benefit shall be payable to the person taking care of her child or to her nominee and to her legal representative in the case of the death also of the child.

The Central Provinces and Madras have somewhat modified methods. The amount of the maternity benefit for the period and up to and including the day of payment shall be paid by the employer to the woman within 48 hours in Madras and 72 hours in the Central Provinces of the production of a certified extract from a birth register of the birth of her child. . + due

## 3. PROPOSALS FOR OTHER INSURANCE

Although a beginning of social insurance has been made by the Workmen's Compensation Act in connection with industrial accidents as noted before, the question of insurance for sickness, invalidity, old age, widowhood and orphanage, is still a problem in India. The Government of India, in concurrence with the Indian Legislature, has, however, refused the ratification of the Draft Conventions and Recommendations adopted by the Tenth International Labour Conference in 1927 concerning sickness insurance. Among the reasons advanced by the Government of India for such a refusal the following are the important: (1) migratory character of labour; (2) habit of going home whenever they are seriously ill instead of submitting themselves to treatment in industrial centres; (3) lack of a sufficient number of qualified medical practitioners to take care of them when ill; (4) the existence of the indigenous system of treatment; (5) opposition of workers to compulsory deductions from their pay; and (6) absence of self-governing institutions like trade unions for the administration of the insurance.<sup>1</sup>

The question of extending social insurance schemes was again brought home to India by the Seventeenth International Labour Conference,

<sup>1</sup> *Legislative Assembly Debates*, 3rd November, 1933, pp. 203-210; *Council of State Debates*, 14th December, 1933, pp. 46-69.

when it adopted Draft Conventions and Recommendations for invalidity, old age and widows' and orphans' insurance in 1933. As before, the Government of India, in concurrence with the Indian Legislature, refused to ratify these Conventions and adopt the Recommendations on the grounds of administrative and financial difficulties involved in a country like India where the number of beneficiaries would amount to over 40 millions of old and incapacitated people, widows and orphans.

The question of social insurance on the basis of compulsory State Fund was again raised in the Legislative Assembly on 6th March, 1937. In the course of the debate it was pointed out that a beginning should be made with a limited scheme of sickness insurance in selected centres where there were facilities for medical attendance. The Government of India again refused to give the proposal any serious consideration, as any granting of insurance, even for old age, at the rate of Rs. 5 a month to workers over 60 years of age would cost the Government Rs. 7 crores a year, and the Government was not in a position to find such a large sum of money by any means. Moreover, the question of social insurance would soon become a provincial subject with the inauguration of provincial autonomy. <sup>1</sup>

<sup>1</sup> *Legislative Assembly Debates*, 6th March, 1937.

Sickness insurance offers, in fact, the easiest method of introducing general health insurance. The question has been receiving the consideration of some provincial governments. The Government of Madras, for instance, has proposed some modification of the Madras Factories Rules, 1936 with a view to requiring factory owners to maintain records of sickness periods of their workers which might provide material for the formation of measures for sickness relief. <sup>1</sup>

<sup>1</sup> Fort Saint George Gazette, 10th May, 1933, Part I, p. 63.

## CHAPTER IX

### TRADE UNION LEGISLATION

The origin of trade unionism may be traced back to 1890,<sup>1</sup> when a trade union was organised by the workers of Bombay, but it was not until 1918 that trade unions really began to appear. Industrial unrest, following the cessation of the War, gave a new impetus to the growth of the trade union movement and by 1925 the number of trade unions amounted to 175.<sup>2</sup> With the growth of labour organisation, the necessity was felt for adequate legislation guaranteeing their existence and protecting their interests. This was more forcibly brought home to Government in 1920 when a union leader at Madras was prosecuted and put under injunction for conducting a strike which was alleged to have induced workmen to break their contracts with employers, and although the case was withdrawn, the proceedings drew attention to the impediments which the trade union movement might encounter in the existing state of the law.<sup>3</sup>

<sup>1</sup> Cf. Author's *Labour Movement in India*, 1923, p. 33.

<sup>2</sup> *The Directory of Trade Unionism*. The Servants of India Society's Home, Bombay, p. 1.

<sup>3</sup> *Bulletins of Indian Industries and Labour*, No. 43, 1930, pp. 3 and 4

## I INDIAN TRADE UNIONS ACT, 1926

The first step towards trade union legislation in India was taken on 1st March, 1921, when a resolution was moved in the Legislative Assembly for the registration of trade unions, and with some amendment, was accepted by the Government of India. On 12th September of the same year, the Government of India asked all Local Governments to ascertain the views of public bodies and private persons concerned on the following questions: (1) the principles of such legislation, (2) the objects aimed at in similar legislation with special reference to—(a) compulsory or optional legislation, (b) the extent to which their objects should be specified, (c) recognition of strikes, (d) recognition of picketing, (e) age qualification, (f) protection of trade unions from civil and criminal liabilities, (g) management of unions, and (h) trustees and trust funds.<sup>1</sup> On the receipt of the views of various Local Governments, the Government of India drew up a Bill, which was introduced on 31st August, 1925, into the Legislative Assembly, providing for the registration of trade unions, and in certain respects defining the law relating to registered trade unions. The Bill was passed as the Indian Trade Unions Act (XVI) in March, 1926, and the Act was brought into force on 1st June,

<sup>1</sup> *Labour Gazette* October, 1924, p. 167



1927. The main provisions of the Act are as follows :—

(1) A trade union is defined to be “ any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions.”

(2) Every provincial Government shall appoint a person to be the Registrar of trade unions for the province. Any seven or more members of a trade union may apply for its registration, furnishing the following information: (a) the name and address of the union, the names, ages, addresses and occupations of the members applying for the registration, and the names, ages, addresses and titles of the officers; and (b) a general statement of its assets and liabilities in case it has been in existence for a year or more.

(3) In order to be entitled to registration, a trade union must provide in its rule the following conditions, namely (a) the objects of its establishment, (b) purposes to which its funds are applicable, (c) restriction of admission of ordinary members to actual workers in the industry with which it is closely connected, and also of the honorary and temporary members as officers to form the executive, (d) the methods of appointm

dismissal of the executive, and other officers, and  
(e) safe custody of the funds and annual auditing.

(4) The general funds of a registered union may be spent on any of the following purposes :  
(a) payment of salary, allowances and expenses to its officers ; (b) prosecution and defence of any legal proceedings to which a union or its members is a party ; (c) the conduct of trade union disputes on behalf of a trade union or its members ; (d) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment ; and (e) the upkeep of a periodical published in its interest.

(5) A registered trade union may constitute a separate fund from contributions levied for or made to that fund, from which payments may be made for the promotion of the civil and political interest of its members or for the furtherance of its objects. No member shall be compelled to contribute to this fund nor lose his membership for non-contribution. Such funds may be spent for the election campaign, political propaganda or maintenance of a person as a member of a central or local legislature.

(6) No officer or member of a registered trade union shall be liable to any punishment under the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any legal object of the union, or to any civil suit in respect of any act done in contemplation or furtherance of a trade dispute on the ground

only that such act induces some other person to break a contract of employment or that it interferes with the trade, business or employment of another person. A registered trade union shall not be liable in any suit in respect of any tortuous acts of its agents if committed without the knowledge of or contrary to express instruction given by the executive of the trade union.

(7) An agreement between the members of a registered union shall not be void or voidable merely by reason of the fact that any of the objects of the agreements are in restraint of trade.

(8) The minimum age for admission to membership of a union is 15 and to any executive office 18. Not less than one-half of the total membership of the office of a registered union shall be persons actually engaged or employed in an industry with which the union is connected.

### *Indian Trade Unions (Amendment) Act, 1928*

Since a large number of unions were unwilling to register under the Act, a private Bill was brought before the Legislative Assembly in 1928 for extending the immunity from civil suits and criminal prosecutions to all unions whether they were registered or not, but it was rejected by the Legislature.<sup>1</sup>

<sup>1</sup> The Bill was introduced into the Legislative Assembly by Mr. N. M. Joshi on 9th February, 1928, and was rejected on 8th September, 1928. Cf. *Legislative Assembly Debates*, 1928, Vol. III, No. 4.

In the same year the Act was, however, amended by the Indian Trade Unions (Amendment) Act (XV), 1928, with a view to clearly defining the procedure regarding appeal against the decision of a Registrar refusing to register a trade union or withdrawing of a certificate of registration.<sup>1</sup>

### *Administration of the Law*

The Local Government may, subject to the control of the Governor-General in Council, make regulations for the purpose of carrying into effect the provisions of the Act. The penalties for infringement vary from a fine extending to Rs 5 for a default, with an additional fine of Rs 5 a week for a continuing default, in giving any notice or sending any statement for record under the Act, to a fine extending to Rs 200 for supplying false information with intent to deceive, e.g., a false copy of trade union rules to a would be member, and to a fine extending to Rs 500 for wilful and false entry in, or omission from, the statement of the accounts. But no court inferior to that of a presidency magistrate or first-class magistrate shall try any offence under this Act, and no court shall take cognisance of any offence under the Act unless complaint thereof has been made by or with the previous sanction of the Registrar.

Since the coming into effect of the Trade Union Act in 1927, there has been a gradual increase in both the number and membership of trade unions as shown in the table below. Some of the trade unions do not submit their returns and there is no way of estimating their membership, but taking into account only those unions which submit their returns, it will be seen that in less than a decade the number of unions has increased about eight times and membership two-and-a-half times. Of course, there is a good deal of variation in both number and membership of these unions arising partly from the variation in industrial progress and partly from trade union activities.

*Number and Membership of Registered  
Unions in India <sup>1</sup>*

Year.	Registered unions.	Unions submitting returns.	Total membership.	Average membership per union.
1927-28	29	28	100,619	3,459
1928-29	75	65	181,077	2,414
1929-30	104	90	242,355	2,693
1930-31	119	106	219,115	2,067
1931-32	131	121	235,693	1,948
1932-33	170	147	237,369	1,615
1933-34	191	160	208,071	1,300
1934-35	213	183	284,918	1,557
1935-36	236	205	268,326	1,309

The actual number of trade unions in the country is much larger than that registered under the Trade

<sup>1</sup> *Note on the Working of the Indian Trade Unions Act, 1926. for 1935-36, p. 1.*

**Unions Act, 1926** In Bombay, for instance, out of 99 unions with 88,191 members on 1st December, 1937, only 43 unions with 75,084 members were registered. The largest number of registered unions are located in Bengal where there were 59 unions with a membership of 80,816. The best organised workers are to be found on the railways, including workshops and other transport, and there were 50 unions with 149,789 members, *i e.*, about one-fourth of the unions and over two fifths of the members belong to the transport industries.

Another indication of the progress of trade unionism in India is improvement in the financial position. In spite of the laxity in the collection of subscriptions, the income and closing balance of the trade unions have increased over threefold in less than a decade as shown below —

*The Growth of the General Funds of Registered Unions in India<sup>1</sup>*

Year	Income during the year	Balance at the end of the year
	Rs.	Rs.
1927-28	1,63,581	1,60,578
1928-29	3,16,663	2,94,301
1929-30	4,32,638	3,11,765
1930-31	4,07,379	3,77,157
1931-32	4,78,265	5,46,670
1932-33	5,56,953	5,61,014
1933-34	5,03,257	5,50,150
1934-35	5,23,677	5,69,311
1935-36	5,28,712	5,87,072

<sup>1</sup> Note on the Working of the Indian Trade Unions Act, 1926, 1935-36 p. 2.

## 2. PROPOSALS FOR FURTHER LEGISLATION

The question of trade unionism was fully considered by the Royal Commission on Labour. "Everything that we have seen in India," concluded the commission, "has forced upon us the conviction that the need of organisation among Indian workmen is great and that, unless industry and the State develop along entirely different lines from those at present followed, nothing but a strong trade union movement will give the Indian workman adequate protection.<sup>1</sup> With a view to strengthening the trade union movement, the Commission made a three-fold suggestion: First, employers should recognise trade unions, even though such unions might consist of minorities of employees or if there existed rival unions. This "recognition" should mean the right of a union to negotiate with the employer in respect of matters affecting either the common or the individual interests of its members; secondly, Governments should take the lead, in the case of their industrial employees, in making recognition of unions easy and in encouraging them to secure registration. Finally, union leaders should endeavour to give as many members as possible some share in the work of the union and to find suitable

<sup>1</sup> *Report of the Royal Commission on Labour in India* 322.

men within the union to act as officers and train them for such a position.<sup>1</sup>

As far as the amendment of the Trade Unions Act is concerned, the main recommendations of the Commission are as follows: (1) the Trades Unions Act should be re-examined in not more than three years' time with special reference to the limitations imposed upon the activities of the unions of its officers and members in order to facilitate any well-conducted *bona fide* union for applying for registration; (2) all unions should be able to secure, free of charge, the conduct of their audit by Government officials; and (3) the proportion of the number of the executives of a union who are actually engaged in the industry with which it is connected, should be increased from one half to at least two-thirds of the total number.

The Commission also recommended that a registered trade union should not be precluded from initiating and conducting credit or supply societies. But the Government of India did not think it practicable for a body corporate to be a trade union and a corporative society at the same time. Moreover, the free auditing of trade union funds could be given effect to by provincial amendment of the regulations under the Act, and this has been done in several provinces.<sup>2</sup> On the 8th January,

<sup>1</sup> Report of the Royal Commission on Labour in India, p. 324-27.

<sup>2</sup> Bulletins of Indian Industries and Labour, No. 61 Indian Labour

Legislation, pp. 26-27.



1938, the Government of India published a draft of certain regulations in relation to trade unions with special reference to registration and auditing. The action on the draft took place on 8th April, 1938.<sup>1</sup>

### 3. PROVINCIAL TRADE UNIONS MEASURES

Among the defects of the Trade Unions Act, the most important are, first, the absence of any provision for free audit by Government officers, which is being overcome by executive measures; secondly, the absence of any immunity to the members of unregistered unions in their trade activities, an amendment for which has already been rejected by the Government; and, finally, the lack of provision for obligatory recognition by employers of the unions of their workers. Attempts are now being made by provincial Governments to remedy some of these defects.

#### *Indian Trade Unions (Sind Amendment) Bill, 1937*

A non-official Bill, called the Indian Trade Unions (Sind Amendment) Bill<sup>2</sup> was circulated in the Sind Government Gazette on 30th September, 1937, with a view to making it obligatory on employers to recognise all registered trade unions.

<sup>1</sup> Government of India, Department of Labour: Notification No. L. 1785, 4th January, 1938. See also *Gazette of India*, 8th January, 1938, Part I, pp. 31-38.

<sup>2</sup> *Sind Government Gazette* 30th September, 1937, Bill No. XXII of 1937, Part IV, p. 361.

It is argued that the object of the Indian Trade Unions Act, 1926, which was to bring about harmonious relations between employers and employees, is frustrated when the employers, whether Government or private persons, refuse to recognise a union, even when it is registered. The Bill provides that trade unions should be recognised by employers as soon as they are registered.

### *U. P. Trade Unions Recognition Bill, 1938*

A non-official Bill, called U. P. Trade Unions Recognition Bill, was also introduced in the Legislative Assembly on 5th April, 1938. The main provisions of the Bill are as follows<sup>1</sup>: (1) a registered trade union shall be recognised by the employer; (2) the workers of a recognised union shall have the right to collect subscriptions within the mill premises and also to hold meetings during the period of intervals; (3) a recognised union shall have the right of meeting the employer and communicating the complaints and demands of its members; and (4) the political activities of a union shall not stand in the way of its recognition. The Bill was circulated to elicit opinion on the same day, and the public and the interested parties were invited to express their opinion on or before 30th June, 1938.<sup>2</sup>

<sup>1</sup> U. P. Gazette, 9th April, 1938, Part VII, pp. 33-37; 16th April, 1938, Part VIII, pp. 307-8.

<sup>2</sup> *Hindustan Times*, 6th April, 1938.

## CHAPTER X

### TRADE DISPUTE LEGISLATION

An important series of legislative measures in modern society relates to industrial conflict, which has increased with the rise of industrialism on the one hand and of class consciousness among workers on the other. Measures for the regulation of industrial disputes in India have been undertaken by both the Central and Provincial Governments.

#### 1. EMPLOYERS' AND WORKMEN'S (DISPUTES) ACT, 1860

The origin of industrial dispute legislation may be traced back to the middle of the last century, when due to the failures and delays in payment of wages, a conflict arose between European railway contractors and their workmen in the Bombay Presidency and resulted in a violent outbreak, causing the death of a contractor in 1859. At the instance of the Bombay Government, the Government of India passed the Employers and Workmen (Disputes) Act (X) of 1860. The Act provided for the speedy and summary disposal by magistrates of disputes relating to wages in the case of the workers employed in the construction of railways, canals and other public works. One of the provisions was, however, that any person who voluntarily

engaged himself to work for a stipulated period or to execute any specific work and refused to perform it would be liable to a fine not exceeding Rs. 20 or simple imprisonment extending to two months. The operation of the Act was restricted only to the cases where the amount in dispute did not exceed Rs. 200. Local Governments were given powers to extend the Act to their territories. The Act was extended to the Central Provinces in 1862 as well as to other provinces subsequently, but it had long ceased to work. On the recommendation of the Royal Commission on Labour, the Government of India passed an Act (II) in 1932 repealing the Employers and Workmen (Disputes) Act of 1860, with effect from 15th March, 1932.<sup>1</sup>

## 2. INDIAN TRADE DISPUTES ACT, 1929

Industrial disputes, although not unknown before, appeared in their violent forms during and after the War, especially in 1919 and 1920. There was scarcely an industry which was not more or less affected by strikes. On the recommendation of the Legislative Council, the Government of Bengal appointed a Committee in 1921 to consider the problem of industrial unrest. The Committee was opposed to any legislative measures on the

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 357; *Legislative Assembly Debates*, 25th February, 1932, p. 116, *Council of State Debates*, 27th February, 1932, pp. 61-62. *Bulletins of Indian Industries and Labour*, No. 61, p. 23.

ground that such legislation would require organisation on the part of employers and employees which did not then exist, but advocated the formation of Joint Workers' Committees.<sup>1</sup> In the same year the Government of Bombay appointed, also on the recommendation of the Legislative Council, an Industrial Disputes Committee, which recommended, in 1922, the establishment by legislation of an Industrial Court of Enquiry, to be followed by an Industrial Court of Conciliation, if necessary. The general strike in the Bombay textile mills in 1924 led the Government of Bombay to prepare a Bill to give effect to these recommendations, but the introduction of the Bill was postponed at the request of the Government of India, which had a similar Bill under consideration for the whole of British India.<sup>2</sup>

In the same year the Government of India prepared a Bill based on the recommendations of the Bombay Industrial Disputes Committee, and also on the principles of the Canadian Industrial Disputes Investigation Act of 1907 and of the British Trade Disputes and Trade Unions Act of 1927. The chief provisions of the Bill were the establishment of a board, which could be authorised to investigate and settle trade disputes, and the reference of disputes in public utility services to the board before strikes and lock-outs could be declared. These

<sup>1</sup> *Ibid.*, October, 1931, p. 26.

<sup>2</sup> *Labour Gazette*, February, 1924, pp. 5 and 16.

provisions were not well received by the provincial Governments and the Bill was not proceeded with.

The growth of industrial disputes in India in the early part of 1928, however, altered the situation and a new Bill was prepared to make provision for the investigation and settlement of trade disputes for certain purposes, and was passed in 1929 as the Indian Trade Disputes Act (VII) of that year.

The main provisions of the Act were as follows —<sup>1</sup>

(1) By this Act, a trade dispute is defined to mean "any dispute or difference between employers and workmen or between workmen and workmen." A strike means a cessation of work by a body of persons employed in any trade or industry acting in combination, and a lock out means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, in consequence of a dispute.

(2) If a trade dispute exists or is apprehended between an employer and his workmen, the Local Government or the Governor-General in Council (in case the employer be a Department of the Central Government or a railway company) may, by order in writing, refer the matter to (a) a court of enquiry or (b) a board of conciliation, provided that both

parties to the dispute apply, whether separately or conjointly, for it.

A court shall consist of an independent chairman and such other independent person or persons as the appointing authority thinks fit and shall report on his findings to the appointing authority. A board shall consist of a chairman and two or four other members as the appointing authority thinks fit and in the latter case the chairman shall be an independent person and the other members shall either be independent persons or persons appointed in equal numbers to represent the parties to the dispute. The board should make a report to the appointing authority giving, in the case of non-settlement, a full statement of the facts and circumstances and the findings thereof, including its own recommendations.

(3) Strikes and lock-outs without notice in public utility services are prohibited. The public utility service employee who goes on strike in breach of contract without having given to his employer within one month before striking, not less than 14 days previous notice in writing of his intention to go on strike, shall be liable to imprisonment extending to one month or to a fine extending to Rs. 50 or to both. Any public service employer who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than 14 days' notice in writing of his intention to lock them out, shall be liable to imprison-

ment which may extend to one month or to a fine which may extend to Rs. 1,000 or to both

(4) A strike or lock-out shall be illegal which has any object other than the furtherance of a trade dispute and is designed or calculated to inflict severe, general and prolonged hardship upon the community and shall compel the Government to take or abstain from taking any particular course of action. It shall be legal to apply any sums of money in the direct furtherance of an illegal strike or lock-out and any person who incites others to take part in such illegal strike or lock-out shall be liable to imprisonment extending to three months or a fine extending to Rs. 300 or to both. No person refusing to take part in such illegal strike or lock-out shall be subject to expulsion or deprivation of any right or benefit of any trade union or society

### *Indian Trade Disputes (Amendment) Act, 1932*

An important defect of the Act was the lack of adequate provision for protecting those who serve on the court of enquiry or board of conciliation regarding disclosure of confidential information relating to trade unions or industrial undertakings. They were liable to prosecution by aggrieved persons and to trial by any magistrate in respect of disclosures wilful or accidental. The amendment of the Act was recommended by the Royal



Commission on Labour and the railway court of enquiry.

With a view to remedying this defect, the Government of India passed an amending Act in 1932. The chief provisions of this amendment are the following : (1) persons desiring information to be kept confidential should prefer a request to that effect ; (2) the provisions of the Act should apply only to wilful disclosure ; (3) in case of any prosecution, the trial should be only by a presidency or a first-class magistrate ; (4) sanction of the authority appointing the court or the board should be a condition precedent to the institution of a suit or a prosecution.<sup>1</sup>

*Indian Trade Disputes (Amendment) Act  
(XIX), 1934*

The most important recommendation of the Royal Commission was, however, for the complete revision of the Act by a new amendment. The Commission was of the opinion that some statutory machinery was obviously required to deal with trade disputes and it was necessary to consider the form which such machinery should take before the expiry of the Trade Disputes Act in 1934, and in the mean time the Government should appoint courts of enquiry or boards of conciliation wherever

<sup>1</sup> *Legislative Assembly Debates*, 1932, Vol. IV, pp. 74 and 651-54; *Council of State Debates*, 1932, Vol. II, pp. 117-18; *Gazette of India*, 10th September, 1932, Part V, p. 193; 8th October, 1932, Part IV, p. 51.

they would serve any useful purpose. The chief recommendations of the Commission were the following: (1) the consideration of providing means for impartial examination of disputes in public utility services; (2) the possibility of establishing permanent courts in the place of *ad hoc* tribunals under the Act; and (3) appointment by the Local Governments of officers who should undertake the work of conciliation.<sup>1</sup>

The Government of India accepted the recommendations and on 14th January, 1933, addressed a circular letter to the Local Governments inviting their opinion thereupon.<sup>2</sup> A number of suggestions for the amendment of the Act were received, but there was not sufficient time for due consideration of them before 7th May, 1934, when the Act was to expire. In order to prevent the Act from expiring, an Act was passed in April 1934, prolonging the Indian Trade Disputes (extending) Act (XIII).<sup>3</sup>

### INDIAN TRADE DISPUTES (AMENDMENT) ACT (IX), 1938

With a view to giving effect to the main recommendations of the Royal Commission on Labour,

<sup>1</sup> *Report of the Royal Commission on Labour in India*, pp. 245-43.

<sup>2</sup> The Government of India, Department of Industries and Labour, letter No. L. X05, 14th June, 1933. *Gazette of India*, 5th May, 1934, Part IV.

<sup>3</sup> *Gazette of India*, 5th May, 1934, Part IV, p. 43.

and in persuasion of an undertaking given in the Legislative Assembly in 1934, the Government of India introduced a Bill<sup>1</sup> into the Legislative Assembly on 31st August, 1936, further to amend the Trade Disputes Act of 1929. The object of the Bill is to enlarge the scope of the Act, to grant power to provincial Governments to declare a strike illegal in certain conditions, and to appoint conciliation officers to prevent an industrial dispute. The Bill was circulated for eliciting information on 13th October, 1936.<sup>2</sup>

The Bill was referred to a Select Committee on 24th August, 1937. The most controversial point in the amendment was the granting of power to the Government to declare strikes illegal provided that they were of a fairly grave character, and that tribunals had been appointed to investigate them. This provision was rejected by the Select Committee and the Bill was passed in its final stage on 9th April, 1938, as Act No. IX of 1938.<sup>3</sup>

The main provisions of the Act are as follows :—<sup>4</sup>

(1) The definition of the public utilities service

<sup>1</sup> *Gazette of India*, 5th September, 1936, Part V. pp. 298-305.

<sup>2</sup> *Legislative Assembly Debates*, 31st August and 13th October, 1936.

<sup>3</sup> The Bill was passed by the Central Legislative Assembly on 18th March, amended by the Council of State on 1st April, and the amendments of the Council were adopted by the Assembly again on 6th April, and assented to by the Governor-General on 9th April, 1938. Cf. the *Debates of the Legislative Assembly and Council of State* for the respective dates.

<sup>4</sup> *Gazette of India*, 16th April, 1938, Part IV, pp. 138-40.

is enlarged to include power plants and any water transport service carrying passengers, to whose vessels any provision of the Inland Steam Vessels Act, 1917, applies, as well as tramway services, if the provincial Government by notification in the official Gazette declares them to be public services for the purposes of the Act.

(2) The Government, both Central and provincial, is granted power to appoint conciliation officers charged with the duty of mediating in or promoting the settlement of trade disputes in any business, industry or undertakings, and invested with the necessary powers to carry on their duties as public servants within the meaning of the Indian Penal Code (XLV), of 1868.

(3) Among minor amendments may be mentioned the following: (i) a trade dispute shall include any dispute between employers and employees; (ii) discharged strikers shall be regarded as workmen for the purpose of the Act; (iii) a court or board, having the prescribed quorum, may act notwithstanding the absence of its chairman or any of its members or any vacancy in its number; (iv) the provision for the control of illegal lock-outs is made more precise; and (v) provisions are also made for keeping any information communicated to conciliation officers as confidential if any written request is made for it.

## ADMINISTRATION OF THE LAW

The administration of the Indian Trade Disputes Act, 1929, is the concern of both the Central and Local Governments. Courts and boards shall have the same powers as are vested in the courts under the Court of Civil Procedure, 1908, when trying a suit, and every enquiry or investigation by a court or board shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code.

In spite of the enactment of the Indian Trade Disputes Act, 1929, industrial disputes have not been brought under control, as indicated by the movement of industrial dispute in recent years. A dispute means any interruption of work involving 10 or more persons of not less than 24 hours' duration. Reliable data on the disputes have been available since 1921, when the numbers of disputes and of men involved were the highest. As far as the number of work days lost is concerned, the highest figure was reached in 1928, and the lowest in 1935, as shown in the table below. These variations are due to a number of factors, such as the intensity and extensity of the disputes in question brought about by the attitude and activities of both workers and employers. Moreover, it is a general complaint that the Government has scarcely taken advantage of the Act for early settlement of the dispute, and since the coming into effect of this

Government has not utilised it more than three times, once by the Government of India and twice by two Local Governments.

*Industrial Disputes in India in Specified Years*<sup>1</sup>

Year.	Number of Disputes	Persons Involved	Working Days Lost.
1921	396	600,351	6,934,426
1925	134	270,423	12,578,129
1928	203	506,851	31,047,404
1929	141	532,016	12,165,691
1934	159	221,000	4,776,000
1935	145	114,000	973,000
1936	157	169,000	2,353,000

### 3. PROVINCIAL TRADE DISPUTES MEASURES

In the mean time, provincial Governments felt the necessity of supplementing the legislation of the Central Government to deal with legal disputes. It was realised that some of the recommendations of the Royal Commission on Labour such as the establishment of a Works Committee in factories, as well as of permanent courts instead of *ad hoc* tribunals, and provision for impartial examination of

<sup>1</sup> *Bulletine of Indian Industries and Labour*, Nos. 43 and 62, *Industrial Disputes in India*, 1921-23 and 1923-35, respectively. The years chosen are those when the number of men involved or of working days lost reached the highest or lowest figures.

disputes in public utility services, might best be undertaken by provincial Governments. Moreover, the Royal Commission had also recommended that every provincial Government should have an officer, or officers, whose duty it would be to undertake the work of conciliation and to bring the parties privately to agreement.<sup>1</sup> The inauguration of provincial autonomy under the new Constitution on 1st April, 1937, has also stimulated other provincial Governments to take measures for establishing industrial peace within their own territories.

### *Bombay Trade Disputes Conciliation Act, 1934*

Nowhere was there a greater need for undertaking measures for the regulation of trade disputes than in the Presidency of Bombay. The city of Bombay is the most important centre of the cotton mill industry as well as of an increasingly class-conscious industrial labour population. It has suffered more than any other centre from industrial conflict, and, as has already been referred to, had appointed an industrial dispute committee as early as 1921 and also prepared an Industrial Dispute Bill in 1924. After the recommendation by the Royal Commission on Labour for provincial action in the matter of trade conciliation,<sup>2</sup> the Government of Bombay felt the necessity of an additional legislative

<sup>1</sup> *Report of the Royal Commission on Labour in India*, p. 348.

<sup>2</sup> *Ibid.*

measure for the quick settlement of trade disputes and introduced a Bill in the Legislative Council on 14th August, 1934, which was passed as Trade Disputes Conciliation Act on 17th August, 1934, and, being assented to by the Governor-General on 8th October, 1934, came into force on the same day.<sup>1</sup>

*Chief Provisions of the Act:*—The most important provisions of the Act are as follows :<sup>2</sup>

(1) The Act is, in the first instance, applicable to the textile industry in Bombay city and the Bombay suburban district, and the Governor in Council may, by notification in the Bombay Government Gazette, extend its provisions to any other industry or any other part of the presidency.

(2) The Act provides for the appointment of a Government labour officer "to watch the interests of workmen with a view to promoting harmonious relations between employers and workmen and to take steps to represent the grievances of workmen to employers for the purpose of obtaining their redress." For the purpose of exercising such power and performing such duties, the labour officers may, after giving reasonable notice, enter any place to which the Act applies and are entitled to inspect and call for relevant necessary documents from employers and workmen. The labour officer may be appointed

<sup>1</sup> *Labour Gazette*, October, 1934 p. 37

<sup>2</sup> Bombay Act No. XL of 1934.



as a delegate on behalf of a workman in a dispute, and if the workman fails to appoint any delegate when required to do so, he may act in that capacity.

(3) The Act appoints the Commissioner of Labour to be *ex-officio* chief conciliator and provides for the appointment of special and assistant conciliators. Even if a trade dispute exists or is apprehended, the conciliators are empowered, on application or on their own initiative, to initiate conciliatory proceedings with a view to effecting an amicable settlement. The parties to the dispute are to be represented at such proceedings by delegates appointed by them. The chief conciliator is given power equal to that of a civil servant for the purpose of conciliation and he may give notice to the parties to a trade union dispute to appoint delegates on this behalf, and may even disqualify a person from acting as a delegate, but only after the conciliation proceedings have started. Picketing in respect of a strike during the pendency of conciliation proceedings is not prohibited, but any picketing against conciliation proceedings themselves has been declared illegal.

*Administration of the Law* :—The Governor in Council may make rules not inconsistent with the provisions of the Act for the purpose of carrying into effect the provisions of the Act. The conciliator and labour officer may be deemed to be public servants within the meaning of the

Penal Code. The penalties for obstructing conciliation proceedings may be punished with imprisonment extending to six months or with a fine or with both. But no court inferior to that of a presidency or first-class magistrate shall try any offence under the Act, nor shall a court take cognisance of any offence except with the previous sanction of the Governor in Council.

Under the provisions of the Act, the Commissioner of Labour has become *ex-officio* chief conciliator since 1934, and assistant conciliators have also been appointed. Since his appointment, the chief conciliator has been called upon to settle several disputes. The effect of the Act may, however, be best seen in the movement of trade union disputes in Bombay during recent years. It will be seen in the table below that the Bombay Presidency has suffered immensely from industrial conflict. Moreover, the largest number of disputes, persons involved and working days lost are recorded in the case of Bombay Presidency. In 1928 for instance, out of 31 million working days lost in the whole of British India, that in Bombay Presidency alone was as high as 24·6 million. As to the actual effect of the Bombay Conciliation Act and the appointment of conciliators and labour officers, it is too early to come to any conclusion but there seems to be a decline in industrial conflict in recent years.

*Industrial Disputes in Bombay Presidency in  
Specified Years*<sup>1</sup>

Year.	Number of Disputes.	Persons Involved.	Working days lost.
1921	156	154,824	1,639,946
1925	69	175,214	11,382,509
1928	111	318,531	24,629,715
1929	70	178,725	8,329,703
1934	92	168,441	3,832,582
1935	56	47,166	242,214
1936	49	35,323	447,812

Immediately after the coming into effect of the Act, the Government of Bombay also appointed a Civil Service man as Government labour officer.<sup>2</sup> About the same time, the Bombay Millowners' Association also appointed a labour officer to represent its case and to assist the Government labour officer. The heaviest task of maintaining industrial peace has fallen upon the Government labour officer, who is directly responsible for the redress of workers' grievances. Some idea of the work of the labour officer may be had from the cases dealt with since September, 1934, when he undertook his duty. In the first ten months he had on the average about 51 cases but

<sup>1</sup> Cf., footnote in the table for industrial disputes in India.

<sup>2</sup> *Labour Gazette*, October, 1934, p. 87.

during 1937 the number of cases varied from 69 to 126 a month. They relate mostly to wrongful dismissals, reinstatements, bribery and corruptions, assault and cognate offences, and claims of wages.<sup>1</sup>

*Bombay Trade Disputes Conciliation  
(Amendment) Bill, 1938*

The Act of 1934 was scarcely well received by the worker and the defects in the Act were noted by others no sooner than the Act was passed. The Government of Bombay has drafted a new Bill with a view to controlling the lightning strikes and lock-outs. The principal provisions of the Bill are as follows :—<sup>2</sup>

(1) Trade unions, which are now classified as "registered" and "unregistered" as well as "recognised" and "unrecognised," will henceforward also be classified as (a) those recognised by employers, and (b) those recognised by employers with the approved arbitration procedure.

(2) Under the new Bill the employers will be required to give thirty days' notice to workers of any change in wages and hours and a fortnight's notice in the case of dismissal, introduction of rationalisation and efficiency schemes, stoppage or

<sup>1</sup> *Labour Gazette*, for the respective years.

<sup>2</sup> *Times of India*, 24th February, 1938.

change in shifts and withdrawal of the recognition of a trade union.

(3) The Bill provides for the appointment of a labour officer, who is to act on behalf of the workers who have no trade union or no recognition of their trade union and also of a reconciliation officer who will have the first chance of hearing a dispute *in camera* in the presence of the representatives of the workers and the employers concerned, and who, in failing to reconcile, shall report the matter to Government.

(4) A conciliation board, consisting of two representatives of workers and employers with a Government nominated chairman, will take up the work of conciliation officer, if necessary, and will hold a public enquiry into the dispute, although having the authority to hear the dispute *in camera*, and will publish its report.

(5) An arbitration board, consisting of two representatives of workers and employers and a third member selected by them will follow the work of the conciliation board, if necessary. A unanimous decision will be binding upon the parties to the dispute, but in the absence of such unanimity, any debatable point will be settled by an umpire to be appointed for the purpose.

(6) Strikes and lock-outs or any collection of funds for encouraging them during the period of notice are made unlawful. The giving of evidence on the part of the parties to the li

obligatory and any attempt at non-co-operation with the conciliation procedure is also made unlawful.

### *Sind Trade Disputes (Amendment) Bill, 1937*

A non-official Bill, called the Trade Disputes (Sind Amendment) Bill, was circulated in the Sind Government Gazette on 30th September, 1937. The object of the Bill is to amend the Indian Trade Disputes Act (VII, 1929) in its application to the Province of Sind. The main provisions of the Bill are as follows:<sup>1</sup> (1) in all *bona fide* labour disputes, the appointment by the local authority of a court of enquiry or board of conciliation should be obligatory and not optional; (2) the option of appointment of a single individual as judge permitted by the Act should be discontinued as it has led to serious abuses and instead the local authority should be compelled to appoint 3 or more judges, one of whom should be a judge of the court of the Judicial Commissioner of Sind.

### *U.P. Trade Disputes Conciliation Bill, 1938*

Next to Bombay, Cawnpore has recently become a centre of industrial disputes. With a view to dealing with the problem in a systematic manner, the Government of the United Provinces introduced a Bill called the U. P. Trade Disputes Conciliation Bill in the Legislative Assembly on 22nd January,

<sup>1</sup> Sind Government Gazette, 30th Dec. number, 1937 Part IV, pp. 323.

1938.<sup>1</sup> The main object of the Bill is to provide for the appointment of (a) a labour officer and (b) also a conciliator, if necessary, in order to prevent and settle disputes by conciliation.<sup>2</sup>

The chief function of the labour officer would be to promote harmonious relations between workers and employers, create mutual understanding and goodwill among them and thus prevent the growth of trade disputes. Being always on the spot, the labour officer will be able to detect any abuses of workers by their employers and try to redress workers' grievances by bringing them before the employers and also negotiate the settlement of any disputes whenever they may arise.

In case the labour officer is not able to settle a dispute, the Government shall have power to appoint a conciliator to bring together the parties at dispute, suggest possible lines of compromise and induce them to arrive at an amicable settlement. In case he also fails, the conciliator should be in a position to give wise advice to the Government as to the stage at which it could bring its influence to bear either privately or by appointment of a statutory board or court, as pointed out by the Royal Commission on Labour.<sup>3</sup>

The Bill was circulated for eliciting opinion on the same day and the public and the interested

<sup>1</sup> *Leader*, 25th January, 1938.

<sup>2</sup> *U. P. Gazette Extraordinary*, 12th January, 1938.

<sup>3</sup> *Report of the Royal Commission on Labour in India*, 1931, p. 348.

parties were invited to express their views before 21st February, 1938

## 5. RAILWAY DISPUTES CONCILIATION MEASURES

The most important public utility service in India is the railway system and trade dispute between the railways and their employees is bound to cause both financial loss and inconvenience to the public. Except for those lines which are still privately owned and managed, most of the railways in India are owned and managed by the Railway Board which includes an officer for labour. In spite of this fact dispute often occurs on the railways, and during the period 1929-36 there were 34 disputes on railways, including workshops involving 103,360 employees and causing the loss of over 1 99 million working days<sup>1</sup>

The Government of India had under consideration for some time the question of providing additional machinery for the prevention of disputes on railways. This question was, examined in the light of the observations and recommendations made by the Royal Commission on Labour and the views expressed by the All-India Railwaymen's Federation, and the decision was reached to take the following steps as an experimental measure for a period of one year, in the first instance

<sup>1</sup> *Directory of Indian Industries and Labour* 'No. 62. Industry of Disputes in India, 1927-36, p. 76.



*Conciliation Officer*:—A Conciliation Officer has been appointed with his headquarters in Calcutta. His duties are to establish contact with the administrations of the Railways with which he is concerned, with recognised trade unions catering for the employees of those railways and with the area committees, workshop staff committees, railway councils and any other bodies directly concerned in the relations between the administrations and their employees. The Conciliation Officer is responsible, in connection with any actual or threatened trade disputes, for endeavouring to bring the parties to a settlement and is at other times to use his good offices to maintain harmonious relations. He will be responsible to the Government in the Department of Labour.

*Industrial Advisory Board*:—After the Conciliation Officer has organised his work, the Government of India proposes to set up an Industrial Advisory Board. This will consist of a chairman and two members who will be selected by the chairman and two members who will be selected by the chairman as the occasion requires from panels appointed by the Government of India. The Board will deal with any disputes referred to it by the Conciliation Officer, who will have full discretion to refer any cases of importance in which he himself has failed to secure a settlement. On receipt of any such references, the chairman of the Board will normally conduct the preliminary inv

with a view to determining whether, (a) the dispute is of a character which warrants the Board's consideration, and (b) whether there has been a definite failure to reach agreement outside the Board. If both these conditions are satisfied, the Chairman will summon the colleagues he has selected.

The decision of the Board would normally take the form of a report to the Railway Board or the Agent of the Railway concerned, with recommendations where necessary, the copies of the findings being supplied to both the parties. It would be open to the chairman to suspend an enquiry if during its dependency, stoppage of work took place.<sup>1</sup>

<sup>1</sup> The estimated cost of the scheme is Rs. 5000 a year. *Gazette of India*, 15th November 1932

## APPENDIX

### THE LATEST LABOUR MEASURES

The most important recent measures regarding labour in general in British India are those of abolition of servile labour, social welfare, protection of wages, social insurance, trade unions and trade disputes. Although some of these measures have been undertaken by the Central Government, most of them are the results of the increased activities of Provincial Governments in labour legislation.

#### ABOLITION OF SERVILE LABOUR

The Sind Prevention of Free or Forced or Compulsory Labour Bill, 1939, was introduced in the Local Legislature on the 28th January 1939. The Bill seeks to make forced labour an offence punishable with imprisonment or fine, but permits impressed labour provided for by the Indian Forest Act, 1927, and the Bombay Irrigation Act, 1929, on condition that adequate wages are paid for such labour.<sup>1</sup> A similar Bill, called the Bombay Prevention of Free or Forced or Compulsory Labour Bill, 1939, was introduced in the Bombay Legislative Assembly on the 13th April, 1939, identically with the same object.<sup>2</sup>

<sup>1</sup> *Sind Government Gazette*, 16th March, 1939, Part IV.

<sup>2</sup> *Bombay Government Gazette*, 17th May, 1939, Part IV.

## SOCIAL WELFARE LEGISLATION

The social welfare measures of the recent months consists of regulation of child labour and promotion of industrial housing. The regulation of child labour, which has hitherto been dealt with in connection with labour legislation in specific industries, has now become the subject of independent legislation.

*Regulation of Child Labour :—*The 23rd Session of the International Labour Conference adopted a Convention fixing the minimum age of 15 years, at which children might be employed, or might work, in transportation by train or in handling goods at wharves or quays, but reducing the minimum age to 13 years in the case of India. With a view to partially implementing this Convention and to raising the minimum age of children, which was fixed at 12 by Section VI of the Indian Ports Act, 1908, the Employment of Children Act (XXVI), 1938, the Bill for which was introduced on the 15th August, 1938, was passed by the Government of India on the 1st December, 1938. The Act fixes at 15 the minimum age for employment of children in any occupation connected with the transport of passengers, goods or mail by railways and in any occupation involving the handling of goods within the limits of any port, to which the Indian Ports Act, 1908, is applicable. Certain draft rules have also been made by the Government of India for

the employment of children on federal railways and major ports.<sup>1</sup>

The Employment of Children (Amendment) Act, 1939, the Bill for which was introduced in the Central Assembly on the 8th February, 1939, and was passed on the 8th April, 1939, with a view to implementing some of the recommendations of the Royal Commission on Labour referred to above, prohibits the employment of children under 12 years of age in workshops (*i.e.*, premises working without power), such as (1) *bidi* making, (2) carpet weaving, (3) cement manufacture including the bagging of cement, (4) cloth printing, dyeing and weaving, (5) manufacture of matches, explosives and fireworks, (6) mica cutting and splitting, (7) shellac manufacture, (8) soap manufacture, (9) tanning, and (10) wool cleaning, as included in the Schedule. The Act exempts the employment of children under 12 in recognised vocational schools.<sup>2</sup>

*Promotion of Industrial Housing*:—The Code of Civil Procedure (Amendment) Bill, 1939, was introduced in the Central Assembly on the 18th February, 1939, with a view to amending it so as to afford similar protection to a labourer as is enjoyed by an agriculturist in respect of exemption from sale of his house in execution of a money

<sup>1</sup> *Gazette of India*, Part V, 20th August, 1938; 10th December, 1938; 17th December, 1938.

<sup>2</sup> *Gazette of India*, 11th February, 1939, Part V; 15th April, 1939, Part IV.

decree under Section 60 of the Code. If enacted, the measure may help in avoiding the growing acuteness of the problem of housing of labourers, both in rural and urban areas.<sup>1</sup>

An important aspect of industrial housing is the control of rent, the importance of which has recently been realised. The Sind Rent Restriction Bill, 1939, was introduced in the local legislature on the 29th January, 1939, proposing the restriction of increase in rent of houses amounting to Rs. 30 or less.<sup>2</sup> The Government of Bombay passed the Bombay Rent Restriction Act (XVI), aiming at the curbing of the tendency among landlords to increase rent due to the recent decision of the Bombay Government to levy a tax on urban immovable property and restricting the increase of house rent in specified areas, where the standard rate does not exceed Rs. 40 per month. The Bombay Government also passed the Bombay Rent Restriction (Amendment) Act, 1940, with a view to extending its operation up to the 30th March, 1941, as it would have otherwise expired on the 31st March, 1940, according to one of its clauses.<sup>3</sup>

### PROTECTION OF WAGES LEGISLATION

The protection of wages measures in British India in recent months has been undertaken mostly

<sup>1</sup> *Gazette of Ind. a.* 25th February, 1939, Part IV

<sup>2</sup> *Sind Government Gazette*, 25th April, 1939, Part IV

<sup>3</sup> *Bombay Government Gazette*, 12th April, 1939, Part V, 11th June, 1939, Part IV, 25th March, 1940, Part IV

by Provincial Governments in relation to such aspects as wage payment, wage attachment, besetting and minimum wage.

*Regulation of Wage Payment* :—The extension of the scope of the Indian Payment of Wages Act, 1936, was undertaken by the Central Provinces and Berar Government, extending its provisions, on the 16th December, 1938, to the payment of wages of persons employed in establishments carrying on the industries of *bidi* making, shellac manufacture and leather tanning in the districts of Nagpur, Bhandara, Jubbulpore and Bilaspur, to which the provisions of the C. P. Unregulated Factories Act (XVI), 1937, was applicable.<sup>1</sup> A private Bill, called the C. P. and Berar Unregulated Factories Payment of Wages Bill, 1938, was introduced in the Assembly on the 28th September, 1938, restricting, among other things, the employer from withholding payment of wages for more than two months.<sup>2</sup>

*Regulation of Wage Attachment* :—The Bombay Code of Civil Procedure (Amendment) Bill, 1939, was introduced in the Legislature on the 3rd April, 1939. The Bill provides exemption from attachment of property not exceeding Rs. 2,000 in value of a judgment debtor, who is an industrial worker (*i.e.*, a wage earner not receiving Rs. 100 a month), an artisan and an agriculturist.<sup>3</sup>

<sup>1</sup> C. P. and Berar Gazette, 16th December, 1938, Part I.

<sup>2</sup> *Ibid.*, 18th November, 1938, Part II.

<sup>3</sup> Bombay Government Gazette, 10th May, 1939, Part V.

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<sup>2</sup> *Ibid.*, 18th November, 1938, Part II.

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<sup>1</sup> *Gazette of India*, 25th February, 1939, Part IV.

<sup>2</sup> *Sind Government Gazette*, 24th April, 1939, Part IV.

<sup>3</sup> *Bombay Government Gazette*, 15th April, 1940, Part V, 15th June, 1940, Part IV, 25th March, 1941, Part IV.

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1 *C. P. and Berar Gazette*, 16th December, 1938, Part I.

2 *Ibid.*, 18th November, 1938, Part II.

3 *Bombay Government Gazette*, 10th May, 1939, Part V.

*Employers' Liability* :—Employers' Liability Act, 1938, the Bill for which was introduced into the Central Assembly on the 15th August, 1938, and passed by the Central Assembly and the Council of State on the 20th and 22nd September, 1938, respectively, declares that certain defences shall not be raised in suits for damages in respect of injuries sustained by workmen.<sup>1</sup>

*Workmen's Compensation* :—Workmen's Compensation (Amendment) Act (XIII), 1939, the Bill for which was introduced on the 27th February, 1939, and passed on the 28th March, 1939, clarifies the expression "monthly wages" to mean the amount of wages deemed to be payable for a month's service, whether the wages are payable by the month or other periods or at piece rates.<sup>2</sup> The Workmen's Compensation (Second Amendment) Act, 1939, the Bill for which was introduced in the Central Assembly on the 21st September, 1939, and passed on the 22nd September, 1939, makes provisions for war risks of Indian seamen, who are entitled to compensation for injuries sustained by them both under the Indian Workmen's Compensation Act (VIII), 1923, and the British Personal Injuries (Emergency Provisions) Act, 1939. The Amendment makes changes in the provision so that persons claiming compensation under the

<sup>1</sup> *Gazette of India*, 25th August 1938, Part V, Supplement, 31st and 23rd September, 1938

<sup>2</sup> *Gazette of India*, 23rd September, 1939, Part IV

British Act may not have the right to claim it again under the Indian Act.<sup>1</sup>

*Maternity Benefit* :—Maternity benefit measures in recent months have been undertaken by several provinces as indicated by the following, *viz.*, (i) the Madras Maternity Benefit (Amendment) Act (XVI), 1939, passed in July, 1939, provides better protection to women workers against the risk of dismissal during the early days of pregnancy<sup>2</sup>; (ii) the Bombay Maternity (Sind Amendment) Act (XIX), 1939, passed in July, 1939, extends the operation of the Act to Sind, applies it to concerns employing 10 persons or more, and makes it obligatory for employers to provide free medical aid to women workers before, during and after the confinement<sup>3</sup>; (iii) the Bengal Maternity Benefit Act (IV), 1939, which was passed by the Assembly and the Council on the 22nd August, 1938, and the 10th March, 1939, respectively, would come into force on the 1st December, 1940. The provisions of the Act have been largely based upon those of the Bombay Maternity Benefit Act<sup>4</sup>; and (iv) the Assam Maternity Benefit Bill, 1940. was introduced into the Legislature on the 29th February, 1940, to make

<sup>1</sup> *Gazette of India*, 4th March, 1939, Part V; 1st April, 1939, Part IV; 30th September, 1939, Part IV.

<sup>2</sup> *Fort St. George Gazette*, 11th July, 1939, Part IV.

<sup>3</sup> *Sind Government Gazette*, 6th July, 1939, Part IV.

<sup>4</sup> *Calcutta Gazette*, 20th April, 1939, Part III; 2nd October, 1939, Part I.

provisions for the payment of maternity benefit to women workers in such industries as factories, plantations, mines and oil fields for 4 weeks before and 8 weeks after confinement. The qualifying period is fixed at 6 months and employers will have to pay a cash bonus of Rs. 10 and to grant 3 weeks' leave of absence in all cases of miscarriage.<sup>1</sup>

*Unemployment Insurance:*—The first step in unemployment insurance has been taken by the Central Provinces and Berar. An unofficial Bill, called the Central Provinces and Berar Unemployment Bill, 1938, was introduced in the local legislature on the 28th September, 1938, and circulated for eliciting public opinion on the same day. The Bill provides for the following, viz., (i) the relief of workers thrown out of employment from industrial occupations; (ii) the institution of an unemployment fund, to which the employer should contribute at the rate of  $\frac{1}{2}$  anna per day per worker and for which he could deduct from the wages of the worker at the rate of  $\frac{1}{4}$  anna per day per head and the Government should also contribute such sum as it deems fit; (iii) the establishment of free public employment exchanges for the regulation of technical training, vocational guidance and recruitment of workers; and (iv) prohibition of retrenchment by employers without the concurrence of the recognised trade union concerned.<sup>2</sup>

<sup>1</sup> *Amam Gazette*, 9th March, 1935, Part V.

<sup>2</sup> *C. P. and Berar Gazette*, 11th November, 1938.

*Provident Fund* :—The Sind Workers' Provident Fund Bill, 1939, is also an important step in social insurance; the Bill, which was introduced in the legislature on the 28th January, 1939, makes it obligatory for permanent employees in factories, tramways and motor services, docks, wharves and jetties and inland steamer vessels, with wages above Rs. 20 per month, to contribute  $6\frac{1}{4}$  per cent. of their wages towards a provident fund, to which employers should also contribute an equal amount. A worker should be 15 years in the service of the employer to be entitled to his share of the employer's contribution.<sup>1</sup>

### TRADE UNION LEGISLATION

Reference has already been made to the introduction and circulation of the Indian Trade Unions (Sind Amendment) Bill, 1937, which provided that trade unions should be recognised by employers as soon as they were registered. The Sind Trade Unions Recognition Bill, 1939, was also introduced in the local legislature on the 28th January, 1939. The Bill seeks to make it obligatory for employers to accord recognition to the registered trade unions.<sup>2</sup>

### INDUSTRIAL DISPUTE LEGISLATION

An important measure has been passed by the Government of Bombay relating to the settlement

<sup>1</sup> *Sind Government Gazette*, 16th March, 1939, Part IV.

<sup>2</sup> *Ibid.*

of industrial disputes. Reference has already been made to the drafting of the Bombay Trade Disputes Conciliation (Amendment) Bill in March, 1938, which was, however, thoroughly revised in the light of the criticisms of the parties concerned and introduced in the Legislature as Bombay Industrial Disputes Bill on the 2nd September, 1938, and finally passed on the 13th February, 1939.<sup>1</sup> The Act makes it obligatory on the parties to a dispute to endeavour to obtain a settlement of it by conciliation before resorting to strikes or lockouts. The main features of the provisions are as follows:—

*Registration:—*Registration of Unions depends upon their fulfilment of certain conditions. Any union which has been recognised by the employers concerned and which has a membership of not less than 5 per cent. of the total number of the persons employed in the industry or occupation in a local area or any union which has a membership of not less than 25 per cent. of the total, whether recognised or not, is entitled to apply for registration. Not more than one union may be recognised in respect of any particular industry or occupation in any one area. A recognised union which has a membership of not less than 25 per cent. of the total number of employees in industry or occupation concerned is a "representative union" and any union which has a membership of not less than

<sup>1</sup> *Labour Gazette*, Vol. 42, Part XVIII, No. 3, Bombay Government Gazette, 24th February, 1939.



5 per cent. of the total number of workers concerned, but which has not been recognised by the employers concerned is a “ qualified union.”

*Conciliation* :—Every employer must submit for the approval of the Commissioner of Labour standing orders relating to the discipline and working of his establishment and must give notice, in case of any change, to the Government authorities and to the representative of employees. Employees desiring changes must give notice to the employer through the representative of employees, who must forward a copy of the notice to the Government authorities. Negotiations regarding the proposed change will take place and if any agreement is reached it will be registered by the Registrar. If no agreement is reached, the dispute will be referred to an official Conciliator or, in certain circumstances, to a Board of Conciliation appointed according to the provisions of the Act. Strikes and lockouts are illegal during negotiation and conciliation proceedings.

*Arbitration* :—Any employer or registered union may agree to submit disputes to the arbitration of any person or of the Industrial Court which is to be established under the Act and is to be composed of High Court Judges or Lawyers qualified to be High Court Judges. All agreements and awards, however arrived at, are to be registered, and if no date of expiry is specified, they are to remain in force for 6 months after the notice of termination has been given by one of the parties.



# PART III

## LABOUR LEGISLATION IN INDIAN STATES<sup>1</sup>

<sup>1</sup> Cf. "Labour Legislation in India," *International Labour Review*, 1930; "Labour Legislation in Indian States," November, 1936; and "Labour Legislation in Indian States," *International Labour Review*, 1938.



## CHAPTER XI

### SPECIFIC LABOUR LEGISLATION

As noted before, labour legislation in Indian States may also be divided under two categories, namely : (1) the specific, and (2) the general, which are described in the present and the next chapter.

Specific labour legislation in Indian States relates to the regulation of labour conditions in such industries as factories, mines and plantations. According to an enquiry made by the Government of India in 1929-1930, 48 States had one or more of these industries and 22 of them had legislation of some kind or other. There is no doubt that more States have since then developed modern industries and enacted legislation.<sup>1</sup> Some of these States have also their own railways and seaports. In 1935-36, for instance, they owned and worked 5,325 miles of railways<sup>2</sup> and Cochin has just opened a major port at the town of that name.

<sup>1</sup> This enquiry into labour legislation in Indian States was undertaken by the Government of India on behalf of the International Labour Office in 1929-30. Cf. "Labour Legislation in India," *International Labour Review*, November, 1930.

<sup>2</sup> *Report by the Railway Board on Indian Railways; 1935-36*, Vol. II, p. 8. They also had 1601 miles of railways worked by the main line of British India as well as 59 miles of company-owned railways guaranteed by them.

But nothing is known about the existence of any labour measure relating to transport labour in any of these States. The study of specific labour legislation is, therefore, confined to the measures in respect of factories, mines and plantations only.

### 1. FACTORY LEGISLATION

The most important organised industries in Indian States are the factories, of which there were 62 spinning and weaving mills<sup>1</sup> with a paid-up capital of over 6·11 crores<sup>2</sup> and 26,277 looms and 1,212,530 spindles, and employing an average daily number of 63,571 workers in 1935-36. In 1935 there were 1550 factories of all classes employing an average daily number of 242,800 workers, of which 677 were perennial factories and 873 season factories, employing respectively an average daily number of 177,852 and 64,948 workers. The most important of these factories were textile mills and cotton ginneries and presses, consisting respectively of 172 and 729 factories, employing an average daily number of 60,262 and 51,578 workers.<sup>3</sup>

<sup>1</sup> *Statistical Abstract for British India, 1935*, Table No. 213, including 14 in Baroda, 7 in Indore, 7 in Mysore, 6 each in Hyderabad and Cochin, 1 each in Travancore and Cutch, and the remainder in various other States, except 3, which were self-industry (the French Settlements).

<sup>2</sup> *Ibid.*, including the paid-up capital of 215,610 and 17 millions French francs and the debentures of over the 12 crores.

<sup>3</sup> Computed from *Large Industrial Establishments in India in 1935*, Government of India, 1937. Including only the factories employing an average daily number of 25 persons or more.

The largest numbers of factories of all kinds, as well as of factory workers, are to be found in the States of Hyderabad, Baroda, Mysore and Indore, which had respectively 368, 168, 198 and 163 factories and employed an average daily number of 49,490, 27,409, 26,924 and 21,680 workers, possessing together over one-half of the factories and employing over one-half of the factory workers of all the Indian States.<sup>1</sup>

The most important labour legislation in Indian States relates to factories. According to the enquiry by the Government of India referred to above, 18 States<sup>2</sup> had some kind of measures for regulating labour conditions in factories in 1929-30 and a few more have since then enacted Factories Acts.<sup>3</sup> Most of these measures provide for the minimum age of

<sup>1</sup> *Statistical Abstract for British India*, 1938. The number of factories and factory workers in Indore refers to the year 1934-35. Cf. *Labour Gazette*, January, 1937, pp. 347-348. Kashmir had 21 factories and 21,409 workers, and Travancore and Cochin together had 203 factories and 21,843 workers.

<sup>2</sup> The following States, with the dates of enactment in brackets, have Factory Acts: (1) Indore (1904); (2) Barwani (1906); (3) Cochin (1908); (4) Jaora (1909); (5) Travancore (1913); (6) Marwara (1913); (7) Baroda (1914); (8) Mysore (1914); (9) Rajkot (1915); (10) Hyderabad (1917); Among the other States having factory legislation may be mentioned the following: (1) Cambay; (2) Porbandar; (3) Nandgaon; (4) Kholapur; (5) Jind; (6) Bhavnagar; (7) Tonk; and (8) Faridkot.

<sup>3</sup> Among the States recently undertaking factory legislation, definite information is available only from Junagadh, which passed a Factories Act in May, 1935, basing its provisions on the Indian Factories Act, 1911, as modified up to 1931 and excluding its application to State-owned factories (*Labour Gazette*, November, 1935, p. 197). Rampur introduced into its legislature a factories bill in March, 1936 (*Statesman*, 18th March, 1936).

children for admission into employment, maximum hours of work for men, women and children, including, in some cases, weekly holidays and rest intervals, and safety and sanitation. Some of them provide for inspection, and appoint special factory inspectors. As a rule, they are based upon the earlier factory legislation of the Government of India, but with the amendment and re-enactment of the Indian Factories Act, some of the large and important States have also brought their Factories Acts up-to-date.

The leading State in the development of factories is Hyderabad, which has also made considerable progress in factory legislation since 1917, when the first Act was passed. The existing Factories Act (IV) of 1928<sup>1</sup> is applicable to any premises using power machinery and employing 20 persons or more. But in the exercise of the power granted by the Act, the Government extended its scope to include all rice mills in which power machinery was used and not less than 10 persons were employed on any day in the year in 1935,<sup>2</sup> and also to *bidi* (cigarette) factories in which not less than 20 persons were simultaneously employed on any day in the year in 1936.<sup>3</sup>

The second important State in the development of factories is Burma, which has been a pioneer

<sup>1</sup> The Hyderabad Factories Act No. IV of 1928 came into operation on 1st October, 1928.

<sup>2</sup> *Indian Labour Journal*, 21st December, 1935.

<sup>3</sup> *ILL*, 13th June, 1936, 21st September, 1936.



State in social legislation. The Baroda Factories Act of 1914 was based on the Indian Factories Act of 1911 and brought into operation on 1st February, 1914. With a view to giving effect to various amendments of the Indian Factories Act, the Baroda Factories Act of 1914 was amended by the Factories Amendment Act (XXI) of 1930, and was brought into operation on 1st August of the same year.<sup>1</sup>

The next important State in the development of factories is Mysore, which has also undertaken factory legislation on the lines of the Indian Factories Act since 1914. The Factories Regulation of 1925 was based on the Indian Factories (Amendment) Act of 1922, thus giving effect to the hours and weekly rest Conventions of the International Labour Conference incorporated into the British Indian legislation. The Regulation of 1925 was again consolidated and amended by the Mysore Factories Regulation (I) in 1936. Most of the amendments followed closely the provisions of the Indian Factories Act, 1934. It came into force on 1st April, 1936.<sup>2</sup>

Factory legislation has also made progress in other important States. The first State to under-

<sup>1</sup> The Baroda Factories Act (XXI) of Samvat, 1886 (19th June, 1930).

<sup>2</sup> The Mysore Factories Regulation (I) of 1936. Received the assent of His Highness the Maharajah on 11th January, 1936. Mysore also passed Regulation (IV) in 1929 for the regulation of cotton-ginning and pressing factories, which, although mostly a trade measure, gave power to factory inspectors to sanction the plans of new factories.

take factory legislation was in fact Indore, which passed a factories act in 1904 and consolidated and amended it by the Indore Factories Act (VIII) 1929 and brought it into operation on 1st July, 1929.<sup>1</sup> Cochin also passed its Factories Act as early as 1908, though nothing is known of its recent development. The Travancore Factories Regulation was passed in 1913 on the basis of the Indian Factories Act, 1911 and was amended several times between 1922 and 1931. In 1935 the Government of Travancore decided to bring its Factories Regulation into conformity with the Indian Factories Act of 1934 and introduced an Amending Bill into the Legislature on 19th July, 1935. The Bill is still under consideration.<sup>2</sup>

Some idea of the provisions of factory legislation of Indian States may be had from those of Hyderabad, Baroda, Mysore, and Indore with special reference to (1) definition, (2) minimum age, (3) hours of work, (4) health and safety, (5) administration, and (6) enforcement.

*Definition.*—A factory is defined by all these States to be any premises using power machinery and employing 20 (30 in Baroda) or more persons. The Government of Hyderabad is granted power to apply it to any premises either using power machinery and employing 10 persons or more, or

<sup>1</sup> The Indore Factories Act (VIII) of 1929, received the sanction of His Highness the Maharaja of Indore on 15th March, 1929.

<sup>2</sup> The Travancore Factories (Amendment) Bill, 1935.

not using power machinery but employing 20 persons or more ; and the Governments of Baroda and Mysore are granted power to apply it to any premises employing 10 persons or more, whether using power machinery or not. The Mysore Regulation also makes a distinction between seasonal and non-seasonal factories, the former working for a season of 180 days or less in the year or depending mostly upon irregular natural forces, especially those which are connected with the following manufacturing processes, namely, cotton-ginning, cotton-pressing, decortication or ground nuts, and manufacture of coffee, lac, rubber, sugar (including gur) or tea.

*Minimum Age.*—In all these States a child is defined to be a person under the age of 15 (14 in Indore) years, and the minimum age of admission to employment is fixed at 12 (11 in Indore) years. No child may be employed in a factory unless he is certified by a certifying surgeon as to the age and fitness for work and unless he has this certificate or its token in his possession while at work. A certifying surgeon is also granted power to revoke any certificate granted to a child, if on re-examination, the child is, in his opinion, no longer fit for employment in a factory. Besides the children as described above, the Mysore Factory Regulation of 1936 has also created a new class of protected persons between the ages of 15 and 17 years adolescents who must be dul for p

fitness before commencing work as adults, and must carry with them the token of such certificate while at work.

*Hours of Work.*—Elaborate provisions have been made in respect of maximum hours, intervals of rest, weekly holidays, spreadover and overtime. The maximum hours of work for men are laid down at 60 a week and 11 a day in Hyderabad and Indore, 10 a day in non-seasonal factories, and 11 a day in seasonal factories in Baroda, and 54 a week (which may be raised to 56 a week in continuous work) and 10 a day in non-seasonal factories and 60 a week and 11 a day in seasonal factories in Mysore. The maximum hours of work for women are fixed at 10 a day in both seasonal and non-seasonal factories in all these States, except in Indore where they are 11 hours a day, and those for children at 6 a day in Hyderabad, Baroda and Indore, and 5 a day in Mysore.

Rest intervals are provided for on almost the same lines in all these States. No adult worker shall work for more than 6 hours without having an interval for rest of at least 1 hour, or more than 5 hours without having an interval for rest of at least half an hour, or more than 8½ hours without having two intervals of ½ hour each. No child shall be permitted to work for more than 5½ hours without a period of rest of not less than ½ hour, and the rest period shall be so fixed that no child shall be required to work more than 4 hours

continuously, except in Mysore, where the maximum hours of work for children being 5 hours a day, no provision has been made for compulsory interval of rest for children. Each person should have a weekly holiday which shall generally be given on Friday (Muslim holiday) in Hyderabad and on Sunday or any other day in Baroda and Mysore, unless it may be arranged to be within 3 days immediately preceding or succeeding the Friday or Sunday provided that no substitution shall be made as to result in any person's working for more than 10 consecutive days without a holiday for the whole day.

The employment of women and children at night has been prohibited. The Mysore Regulation has also made special provision for the regulation of spreadover so that the periods of work of an adult worker in a factory shall not spread over more than 13 hours in any day without the special permission of the Government and subject to certain conditions, and those of a child shall not spread over more than  $7\frac{1}{2}$  in any day.

Extra payment for overtime is provided for by the Mysore Factory Regulation. A worker, for instance, is entitled to payment at the rate of time and a quarter for work exceeding 54 (or 56 in continuous process) hours but not 60 hours a week in a non-seasonal factory and at the rate of time and a half for work exceeding 10 hours a day in a non-seasonal factory and

hours a week either in a seasonal or non-seasonal factory.<sup>1</sup>

*Health and Safety.*—The provisions for health and safety are practically the same in all the States, although Mysore has brought them more up to date on the basis of the provisions of the Indian Factories Act, 1934. Provisions have been made for sufficient lighting, ventilation, drinking water and sanitary latrines, as well as for keeping a factory clean and free (i) from effluvia arising from drain or privy nuisance, (ii) from dust, gas, vapour or other impurity, (iii) from excessive humidity which may be injurious to the health of persons, and (iv) from overcrowding. The Mysore Factories Regulation gives power to the Government to make rules:—(a) prescribing standards for the cooling properties of the air in factories in which the humidity of the air is artificially increased; (b) regulating the methods used for artificially increasing the humidity of the air; and (c) directing prescribed tests for determining the humidity and cooling properties of the air to be carried out and recorded.

Provisions have been made in all the States for the safety of machinery, adequate fencing and protection against fire. The inspector is granted powers to issue orders in writing requiring a factory to carry out special measures for removing danger

<sup>1</sup> The Indian Factories Act also provides for overtime, i.e., work over 60 hours a week at the rate of time and a quarter.

to human body and life before a specified period, or prohibiting the use of any machinery or plant involving immediate danger unless it has been duly repaired or altered. Women and children are prohibited from cleaning or oiling any part of the machinery and from working between the moving or fixed parts and the moving parts of any machinery while it is in motion under power and also from employment near the cotton-opener.

The Mysore Factories Regulation also gives power to the Government to make rules, (i) specifying any operation involving serious risks of bodily injury or poisoning or disease to be hazardous, and prohibiting the employment of women, adolescents or children therein, and regulating the work of adult men with special provision for safety and medical care ; (ii) prohibiting the admission to any specified class of factories or to specified parts thereof, of children who cannot be lawfully employed therein ; (iii) requiring a factory employing more than 150 workers to provide an adequate shelter for the use of workers during the rest period ; and (iv) requiring a factory employing more than 50 women to provide a suitable room for the use of their children under 6 years of age.

*Administration.*—In all the States, Government has been granted power by the Factories Act to extend, with notification in the official gazette, its scope to smaller factories and also to exempt a factory or a class of factories . . . o

Moreover, Government has been granted power to make rules for administrative purposes such as, (i) exemption of certain class of workers from the provisions in respect of hours, (ii) the prescribing of physical standards to be attained by children and adolescents for admission to employment, (iii) the prescribing of standards of health and safety measures to be provided for by factories, (iv) adequate disinfection of wool which may be infected with anthrax spores, and (v) the forms of registers, notices and returns in respect of various provisions.

Factory inspectors to be appointed under the Factories Act may be classified under the following headings —(1) special inspectors shall be appointed by Government, after notification in the official gazette, for the purpose of the Act and within such local areas as may be assigned to them, with one of them having power to act as a chief, (2) every district magistrate shall be an inspector of factories within his district, (3) the Government may appoint, by notification in the official gazette, public officers to act as additional or *ex officio* inspectors within assigned areas, and (4) the Government may appoint registered medical practitioners to be certifying surgeons for the purpose of the Act and within assigned local limits and may also prescribe their duties and powers regarding the certification of minimum age and physical fitness. Every inspector shall be deemed to be a public



servant within the meaning of the Penal Code of the State and shall be officially subordinate to such authority as Government may specify in this behalf.

Provisions have also been made requiring factories to keep registers and give notices in the prescribed form. Before the commencement of work or in every season in the case of seasonal factory, the occupier (the man in charge of the factory) shall send a written notice in prescribed form to the inspectors with such particulars as the nature of the work performed and the nature and amount of moving power to be used. Every factory shall separately keep registers in prescribed form of every child and adult employed therein with such particulars as the nature of work, the group (if any) in which he is included and where his group works on shift and the relay to which he is allotted. A factory shall also display and maintain in prescribed form the periods within which children and adults are employed and they should not be employed otherwise than in accordance with the prescribed periods. Every factory shall also display the abstracts of the Act and the rules made thereunder in prescribed languages.

No prosecution under these Acts shall be instituted except by or with the sanction of inspectors, and no court inferior to that of a first-class magistrate shall try any offence against the Act. Penalties are provided for the infringement of the law and

the Mysore Factories Regulation provides enhanced penalty in certain cases after previous conviction for the same offence

Some idea of the administration of the factory law by these States may also be had from the administration reports for 1934-35. The total numbers of the perennial and seasonal factories, as well as of factory workers including women and children are shown below. It will be seen that considerable numbers of women and children are employed by the factories in these States.

*Factories and Factory Workers in some  
Indian States<sup>1</sup>*

State	Factories			Workers			
	Perennial	Seasonal	Total	Women	Children	Men	Total
Hyderabad <sup>2</sup>	37	289	326	9 642	967	18 709	29 318
Baroda <sup>3</sup>	27	89	116	4 083	577	20 582	25 242
Indore <sup>4</sup>			163	4 159	593	16 928	21 680
Mysore <sup>5</sup>	158	51	209		1 149		17 758

<sup>1</sup> The above figures except those of Indore relate to earlier years than those given before but they nevertheless give some detailed account of seasonal and non seasonal factories and also of the employment of women and children.

<sup>2</sup> *Report of the Administration of Factories and Boiler Department, Hyderabad 1934-35*

<sup>3</sup> *Labour Gazette* December 1936, p. 269

<sup>4</sup> *Ibid.*, Jan., 1937, pp. 347-48

<sup>5</sup> *Administration Report of the Department of Industries and Commerce, Mysore 1934-35*, pp. 3 and 18-20. *Labour Gazette*, August, 1936, p. 684

The most important indication of the administration of the factory law is the inspection of factories. In 1934-35, of 326 factories, 180 were inspected once, 47 twice and 13 three times, that is, 230 or over three-fourths were inspected in Hyderabad; of 209 factories, 165 or about four-fifths in Mysore;<sup>1</sup> and with a few exceptions all perennial factories were inspected twice and all seasonal factories at least once in Baroda.

The number of children examined by certifying surgeons in Mysore was 341, of whom 325 were granted a certificate of age and fitness for work in factories. Mysore also reported 119 factory accidents including one fatal and 59 serious accidents. Provisions for daily and weekly hours as well as rest intervals and weekly holidays were generally observed; weekly holidays were granted mostly on Sundays but in certain cases the local weekly market day was selected for the weekly holiday.

Welfare work for improving the working and living conditions was undertaken by the textile mills in both Mysore and Indore. The latter also reported the installation by textile mills of crèches, maternity homes, free treatment and medicine stalls and grain depots and co-operative credit societies.

<sup>1</sup> Mysore: *Administration Report of the Department of Industries and Commerce* for 1934-35, pp. 3, 18-20; *Labour Gazette*, August, 1936, p. 884. There were also 223 boilers in the State of Mysore and 173 or about four-fifths of them were inspected. Moreover, 36 cotton ginning and pressing factories were inspected by special inspectors appointed under the Cotton Ginning and Pressing Regulation (IV) of 1929.

## 2. MINING LEGISLATION

Next to factories, the most important industry in Indian States is mining, especially the production of gold and coal. The former is practically the monopoly of the Kolar gold field of Mysore and the latter is scattered over several States. The Kolar gold field produced in 1935, 326,125 ounces of fine gold as compared with 1,528 ounces in British India.<sup>1</sup> The production of coal in 1936 was 2,025,130 tons, including 852,739 tons in Hyderabad.<sup>2</sup> The figures for all classes of mining workers are not available, but most of them are engaged in gold and coal mines. The daily average number of workers in gold mines was 22,444 in 1935 in all India, by far the majority of whom were employed in the Kolar gold mines,<sup>3</sup> and that in collieries in Indian States 18,694 in 1936, including 9,486 in Hyderabad.<sup>4</sup>

Mining legislation has long been enacted in those States which possess coal, gold and other mines such as Hyderabad, Mysore, Baroda, Indore and Travancore.<sup>5</sup> Mysore which employs the largest number of mining workers, enacted a Regu-

<sup>1</sup> Cf. *Statistical Abstract for British India*, 1938, Table No. 206.

<sup>2</sup> *Indian Coal Statistics*, 1936, Table No. 1.

<sup>3</sup> *Statistical Abstract for British India*, 1938, Table No. 207.

<sup>4</sup> *Indian Coal Statistics*, 1936, Table No. 6, p. 6.

<sup>5</sup> According to the enquiry of the Government of India in 1929-30, referred to above, only 5 States, including Patiala, which prohibits the employment of women and children underground in mines, seem to have mining legislation.

lation in 1897 and amended it in 1900. The existing mine legislation was passed on 24th July, 1906 as the Mysore Mines Regulation (IV) of that year.<sup>1</sup> The rules under Sections 21 and 37 of the Regulation were brought up to date on 30th June, 1935.<sup>2</sup> The Government of Hyderabad passed the Hyderabad Mines Act in 1911 (1320 Fasli) and brought it into operation in the same year.<sup>3</sup> The Regulation "to provide for the regulation and inspection of mines and for the prospecting for metals and minerals" was also passed by Travancore as the Travancore Mines and Minerals Regulations<sup>4</sup> on 8th May, 1928, and was at once brought into operation.<sup>5</sup>

Some idea of mining legislation in Indian States may be had from the Mines Act or Regulation in Mysore, Hyderabad and Travancore with special reference to (a) definition, (b) inspection, (c) safety, (d) sanitation, (e) hours of work, (f) women and children, (g) boards and committees, and (h) administration.

<sup>1</sup> The Mysore Mines Regulation (IV) of 1906.

<sup>2</sup> Rules prescribed under Sections 21 and 37 of the Mysore Regulation (IV) of 1906. Bangalore, 1935.

<sup>3</sup> The Hyderabad Mines Act (No. III) of 1320 Fasli (1911).

<sup>4</sup> The Travancore Mines and Mineral Regulation under Section 14 of Regulation II of 1907 (the Regulation No. III of 1103).

<sup>5</sup> Indore made Rules for the grant of exploring and prospecting licences and mining leases in the Holkar State in 1926. But it can scarcely be called a mining legislation for the regulation of the employment of labour.

*Definition.*—The Mysore Mines Regulation defines a mine to mean “any place above or below ground where any mining operation is carried on and includes all such portions of the surface of any mining block whereon the right of entry has been acquired by purchase or otherwise by a mining proprietor.” The definition of a mine in Hyderabad and Travancore is practically the same. The Travancore Mines and Minerals Regulations of 1928 defines a mine to be “any excavation whether subterranean or not, where any operation for the purpose of searching for, or obtaining, minerals has been or is being carried on and includes all works, machinery, tramways and sidings, whether above or below ground, or in, or adjacent to, or belonging to a mine.”

*Inspection.*—The Government in all these States is granted power to appoint, by notification in the official gazette, an inspector of mines with the necessary power to carry out the object of the Act or of the rules made thereunder. The Inspector of Mines may, by giving notice in writing or stating particulars or giving reasons, require a mine to remedy any matter, thing or practice which is dangerous to life and safety within a specified time, or to prohibit the employment of any persons in or about a mine where there is any immediate danger to life and safety until such danger is removed. In the case of a mine's objection to such requisition, the case may be decided by a higher authority, to

be appointed by the Government, such as a court of arbitration (Mysore), or a committee (Hyderabad), or a commission (Travancore). A district magistrate may also exercise the powers and perform the duties of an inspector subject to the general and special orders of the Government.

*Safety.*—All mining operations carried on in any of the States shall be conducted in accordance with the provisions of the Act or the Regulation and the Rules made thereunder for the prevention of danger to life and safety and for the reporting and investigation of accidents and other matters connected with such mining operations as may from time to time be prescribed by the Government on their behalf. A mine may, if called upon by the inspector of mines to do so, make by-laws not inconsistent with the Act or the Rules made thereunder for safety, convenience and discipline of the persons employed in the mine and, when approved of by the Government, these by-laws shall have the same effect as if enacted by the Legislature.

*Sanitation.*—The Government may, from time to time, make rules for special sanitation and sanitary administration of any local area within which mining operations may be carried on. The Government of Mysore is granted power to appoint any persons, official or non-official, to constitute a Sanitary Board and invest such Board with powers for the enforcement of the said rules. With the previous sanction of the Government, the Sanitary

and making reports to the Government. The reports of the commission, committee, court of enquiry or any other report, submitted under the Act of Regulation, may be published, in part or in full, at the discretion of the Government.

*Administration.*—The Act or Regulation grants power to the Government to make rules in conformity with the legislation, such as (i) defining the duties and powers of the inspector of mines and the procedure and appointment and the duties of mining boards, committees and courts of enquiry; (ii) prescribing the qualifications and duties of managers and other responsible persons of mines; (iii) providing safety measures in mines and regulating the procedure on the occurrence of accidents and the supply of medical appliances; (iv) making rules for sanitation and sanitary administration; (v) prescribing the forms of notices, registers and returns. All the mines are required to notify, in prescribed form, the inspector of mines of the commencement of their work and the Travancore Regulation requires also the registry of the hours of work and the days of rest and nature of work of the labourers employed in a mine.

### 3. PLANTATION LEGISLATION

The next important industry in Indian States is that of plantation, especially the cultivation of tea, coffee, and rubber, to which were devoted 227,176, 151,700 and 107,000 acres of land, employing a



daily average number of 81,822, 50,692 and 22,607 workers respectively in 1936-37. As far as the employment of plantation labour is concerned, the most important States are Travancore, Mysore, Tripura, and Cochin, which employed a daily average number of 90,582, 73,093, 8,387, and 4,559 workers respectively.<sup>1</sup>

Except for the regulation of the recruitment of labour for Assam tea gardens there has not yet been enacted any legislation for the regulation of labour conditions on plantations in the whole of India. A lead has, however, been given by the State of Cochin which framed rules for conserving the health, and protecting the interests of the labourers employed on plantation estates in Cochin and circulated them on 12 April, 1937. They were brought into operation on 1 May, 1937.<sup>2</sup>

The main provisions of these rules are as follows :

*Definition.*—A plantation estate means “ any estate on which labourers are employed, having 10 acres of land actually cultivated in tea, rubber, coffee, cocoa, cardamoms, camphor, pepper, coconuts, areca nuts and cashew nuts ” or “ any

<sup>1</sup> Compiled from *Indian Tea Statistics*, 1936; *Indian Coffee Statistics*, 1936-37, and *Indian Rubber Statistics*, 1936. The figures given above refer to the year 1936 in the case of tea, and rubber and to the year 1936-37 in the case of coffee.

<sup>2</sup> *Cochin Government Gazette*, Notification No. 86. The only other state in which any measure regulating the work of the garden labourers has been undertaken is Tripura.

such estate where 20 or more labourers are employed on any one day in the year."

*Women and Children.*—The most important regulations of the employment of women and children are as follows: (a) no child under the age of 10 years shall be employed on any estate; (b) no child or young person under the age of 16 years shall be employed as a resident labourer on an estate without being certified fit to work by competent authority; (c) no woman or child labourer shall be allowed to work on a plantation except between 6 a.m. and 6 p.m.; and (d) all estates should provide free maternity aid and food to all resident women labourers for a period of 7 weeks.

*Health and Housing.*—Every estate shall (a) provide free medical aid to all resident workers and free food during illness and convalescence; (b) adopt necessary anti-malarial measures during malarial seasons; (c) maintain a register showing births, deaths, accidents, etc.; (d) supply two gallons of water per day of approved quality to every labourer; (e) provide clean and sanitary latrine accommodations at the rate of one seat for each 20 persons; (f) supply a sufficient quantity of rice of good quality at cost price; and (g) provide for labourers housing accommodation of approved standard. The Director of Public Health is empowered to condemn immediately any building which, in his opinion, is unsanitary and unfit for

human occupation. A standard of minimum housing requirements should be drawn up within two years and the total necessary expenditure may be distributed over a period of four years.

*Administration.*—Provisions have been made for the inspection of an estate, usually once a year, by the Director of Public Health or the District Magistrate or his deputies. The inspecting officer shall have the power of entry and examination of every estate as well as examination of any register or the documents relating to employment, birth, death and accident, etc. He may also examine all scales, weights and measures of all traders, brokers or commission agents doing any business with estate labourers. Inspecting officers shall report on general conditions on estates visited to the heads of their respective departments, who may recommend to the estates to improve certain conditions. In case these recommendations are not acceptable to the estates, the matter may be referred to a Planting Estates Advisory Committee to be appointed by the Government, consisting of the Director of Public Health, the Planting Member of the Council and the Member of the Council for Commerce and Industry, and the findings of the Committee shall be carried out by the estates.

## CHAPTER XII

### GENERAL LABOUR LEGISLATION

General labour legislation, or legislative measures dealing with the welfare of workers in general, irrespective of the industry in which they are employed, has also been making progress in Indian States, although the number and scope of these measures are still limited as compared with those in British India. These measures relate to such subjects as abolition of servile labour, promotion of social welfare, protection of wages including a relief from indebtedness, payment of social insurance, development of trade unionism and settlement of industrial conflict.

#### 1. ABOLITION OF SERVILE LABOUR

As in the case of British India, servile labour in Indian States may be divided into two categories, namely :—(i) customary servitude or servitude which developed as slavery and serfdom in ages past and the vestiges of which still survive in different forms; and (ii) statutory servitude or servitude which has recently been created by statutory measures. Both these forms of servitude are to be found in various Indian States and measures are being taken to abolish them.

### *Regulation of Customary Servitude*

Customary servitude is more prevalent in the autocratic Indian States than in the more democratic provinces, although the latter are more completely under British rule than the former. Moreover, the abolition of slavery in 1843 and subsequent injunctions, as well as the various social, religious and political movements have also created the love for liberty and undermined all forms of servitude in British India. Customary servitude in the Indian States is to be found in the form of bondservice and forced labour.

Of the various forms of bondservice existing in Indian States, the most prevalent and well-known is the *bhagela* system in Hyderabad, although it is mostly confined to the district of Telingana. Under this system, agricultural labourers or domestic servants may contract loans from their landlords, generally on the occasion of marriage, on the condition of rendering personal service, either for a specified or an unspecified period. As additional loans may be granted from time to time and the wages of the labourer are extremely small, e.g., Rs. 3 or Rs. 4 a month, the liquidation of the advances or debts becomes almost impossible, and labourers may serve their creditors or masters for their whole lives and under certain systems of contract, both the debt and the consequent service may be transferred from the father to the s.

The Government of Hyderabad issued orders for the suppression of some forms of customary servitude in 1926. After the adoption by the International Labour Conference of draft Convention relating to forced labour and at the instance of the Government of India, the Government of Hyderabad decided to regulate the *bhagela* system and promulgated the Hyderabad *Bhagela* Agreements Regulation (on the lines of the *Kamiauti* Agreements Regulation of Bihar and Orissa of 1920) on 11th January, 1936.<sup>1</sup>

The main provisions of the Regulation are as follows :—<sup>2</sup>

1. The *Bhagela* Agreement is defined to mean any agreement, written or oral or both, where the consideration of the performance of labour by any person includes an advance made or to be made, the interest on such an advance, and an agreement in the transaction, except an agreement of unskilled labour or for the supply of a cart or cart-man, or outside the area to which this Regulation extends.

2. Any *Bhagela* Agreement existing at the time of the promulgation of this Regulation should come to an end on the expiry of one year from the commencement of such *bhagela* agreement and it should be regarded that all stipulated labour to

<sup>1</sup> *Times of India*, 4th February, 1935.

<sup>2</sup> The Hyderabad *Bhagela* Agreement Regulation of 1343 Fasli. (Received H. E. H.'s consent on the 11th January, 1936.)

have been duly performed, the advance or principal and the interest thereon to have been repaid and the debt and the interest thereon to have been discharged.

3. The *Bhagela* Agreement entered into after the promulgation of the Regulation shall be wholly void unless (i) the terms of the agreement are expressed in a duly stamped instrument; (ii) the debtor is given a counterpart of the said instrument at the time of its execution; (iii) the stipulated period is limited to one year or less; (iv) the liability in respect of any advance, debt or interest to be within the expiry of the stipulated period; and (v) a fair and equitable wage and reasonable hours of work are provided. The rate of interest recoverable under a *bhagela* agreement shall not exceed 6 per cent. per annum.

4. A *Bhagela* Agreement shall become void on the death of the *bhagela* (person undertaking the performance of the work under this agreement) and the liability to labour extinguished. In the case of refusal by a *bhagela* to perform the work after having taken the advance, the principal advanced, together with the interest at the rate of 6 per cent. may be recovered.

Forced labour has also come down from time immemorial and is used in the case of (i) public, works e.g., construction of a road or temple, (ii) emergency work, e.g., in the case of flood, (iii) official tours, and (iv) hunting.

Attempts are being made to abolish all kinds of forced labour except in the case of emergency, which labourers may be compelled to do on the payment of customary rate of wages. Baroda has a Penal Code declaring force labour illegal. The Government of Hyderabad issued orders in 1926 for the abolition of forced labour. After the acceptance in 1931 by the Government of India of the draft Conventions of the International Labour Conference of 1930, relating to the abolition of compulsory or forced labour, steps are being taken by several States to abolish forced labour.

### *Regulation of Statutory Servitude*

Several States had made breaches of contract punishable under the original laws, which were adopted, either in full or with some modifications to suit local conditions, from the Indian Workmen's Breach of Contract Act of 1859. After the abolition by the Government of India of labour under penal sanction, steps have also been taken by Indian States to abolish penal sanction for breaches of contract.

With a view to bringing its law into conformity with the spirit of modern legislation, the Government of Mysore passed a regulation repealing the Workmen's Breach of Contract Act, 1859, and also sections 490 and 492 of the Mysore Penal Code on 26 June, 1933, and brought it into opera-



tion on 1 October, 1933.<sup>1</sup> The Government of Travancore also passed the Travancore Breach of Contract (Repealing) Act on 25 January, 1935, abolishing all penal sanction for breaches of contract and Sections 493 and 495 of Travancore Penal Code provided by the Breach of Contract Regulation of 1905, as amended by the Regulation<sup>2</sup> of 1912.

## 2. SOCIAL WELFARE LEGISLATION

Social welfare legislation has just made its beginning in the Indian States as indicated by two legislative measures, namely (i) Child Labour Regulation, and (ii) Industrial Housing Regulation.

### *Child Labour Regulation*

There has been a common practice in many States to employ children of any age as domestic servants. With a view to regulating the employment of such children, the Government of Hyderabad passed the Hyderabad Children Protection Act (No. IX of 1343 Fasli) in 1934<sup>3</sup> prohibiting the employment of children under 7 years of age as domestic servants in the City of Hyderabad and

<sup>1</sup> The Mysore Workmen's Breach of Contract (Act) Repealing Regulation, 1933. Received the assent of His Highness the Maharajah on 26 June, 1933.

<sup>2</sup> *Hindu*, 27 July, 1934; 26 January, 1935.

<sup>3</sup> The Hyderabad Children's Protection Act, No. IX of 1343 Fasli i.e. 1933-1934

### 3. PROTECTION OF WAGES LEGISLATION

Measures for the protection of wages, including relief from indebtedness, are of very recent origin in Indian States and relate only to (i) payment of wages, (ii) attachment of wages, and (iii) imprisonment for debt. While the measure for wage payment is still under consideration by the Government of Indore, the measures for relief from indebtedness have already been passed by the Government of Mysore.

#### *Payment of Wages Measure*

The most important measure undertaken for the protection of wages is the Indore Payment of Wages Bill, introduced into the Legislative Assembly of Indore and referred to a Select Committee for consideration on 20th, March, 1938.<sup>1</sup> The object of the Bill is to remedy some of the grievances of the workers as to neglectful calculation of wages, delay in payment, and indiscriminate fines, and has been based on the Payment of Wages Act of 1936 of the Government of India. The following are the principal provisions of the Bill<sup>2</sup> :—

(1) It applies to the payment of wages in all factories and workshops where 50 or more persons

<sup>1</sup> *Statesman* (New Delhi), 29th March, 1938.

<sup>2</sup> The Indore Payment of Wages Bill (No 11 of 1938).

are employed and to all persons drawing less than Rs. 200 a month.

(2) The period of wage payment shall be fixed and shall not exceed 15 days. The payment of wages shall be made before the expiry of the third day of the period for which it has been earned in the case of factories employing less than 1,000 workers, and before the fifth day in the case of other factories, and before the second day in the case of persons who are discharged. All payments shall be made on a working day and in current coin or in currency notes or in both.

(3) The wages of a worker must be paid in full without any deductions unless such deductions are authorised by the Act in the following manner :—

(a) No fine shall be imposed on any person who is under the age of 15, or who gets Rs. 15 or less a month, and no fines shall be imposed on any person employed save in respect of prescribed and notified acts and omissions and without giving him an opportunity of showing cause against it. The total amount of fines shall not amount to more than half an anna in the rupee of the wages payable to him in respect of the wage period, or should be recovered by instalments or after the expiration of 60 days from the day on which it has been imposed. All fines and realisations thereof shall be registered, administered by a joint committee of

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The Act applies to all classes of persons, including workers.

#### 4 SOCIAL INSURANCE LEGISLATION

As in British India, social insurance has been secured for workers in some of the Indian States only in the case of workmen's compensation and maternity benefit

##### *Workmen's Compensation Measures*

An important series of labour legislation in Indian States relate to workmen's compensation which has been enacted by Baroda, Mysore and Indore, and is under consideration by Travancore.<sup>1</sup> Baroda adopted the Indian Workmen's Compensation Act, 1923, with the necessary modification to suit local conditions in 1929-30, and also the Indian Workmen's Compensation (Amendment) Act, 1933, in 1934.<sup>2</sup> Mysore passed "a regulation to provide for the payment by certain classes of employers to their workmen for injury by accidents" as the Workmen's Compensation Regulation (XIV) of 1928.<sup>3</sup> After the enactment by British India of the Indian Workmen's Compensation (Amendment) Act, 1933, Mysore

<sup>1</sup> The Travancore Workmen's Compensation Bill 1935

<sup>2</sup> The Indian Workmen's Compensation Act applied to Baroda Raj, January 1930 Labour Gazette, September 1935 p. 37 *Statesman*, 31 August 1937

<sup>3</sup> The Mysore Regulation No. XIV of 1928 received the assent of His Highness the Maharajah on 4 July, 1928.

amended its workmen's compensation legislation in 1936 as the Mysore Workmen's Compensation (Amendment) Regulation (III) of that year.<sup>1</sup> Indore passed its Workmen's Compensation Act, 1923<sup>2</sup> but without including its recent amendments.

The chief provisions of the Indore Workmen's Compensation Act, 1935, are as follows:—

*Scope.*—The Act includes all workers who are employed either by way of manual labour or on monthly wages not exceeding Rs. 300 in any capacity in such industries and occupations as (1) factories working under the Factories Act of 1929, (2) mines within the meaning of the law, (3) construction and demolition of buildings (more than one storey high), (4) bridges (more than 50 feet long), (5) telegraph and telephone line or post or any other electric line or cable, (6) underground sewer, (7) fire brigade, and blasting operations. The Act is also applicable to a certain class of occupational diseases, such as lead and sulphur poisoning. The Government is granted powers to extend the scope of the Act to include other occupational diseases and hazardous industries and occupations.

*Title to Compensation.*—Any workman coming within the scope of the Act is entitled to compensation from his employer in the case of personal

<sup>1</sup> The Mysore Regulation No. III of 1936, received the assent of His Highness the Maharajah on 14 July, 1936.

<sup>2</sup> The Indore Workmen's Compensation Act (No. II) of 1935.

injury caused by accident, arising out of and in the course of his employment, provided that the disability lasted more than 10 days and the injury is not caused by the fault of the workman, i.e., due to the influence of drink or drugs, wilful disobedience to an order expressly given or to a rule expressly framed for securing safety, and wilful removal or disregard of safety guard or other devices.

In the case of a fatal accident, the beneficiary for compensation will be the dependant, who may be any of the following relatives of a deceased workman, namely, a wife, husband, parent, minor son, unmarried daughter, married daughter who is a minor, minor brother or unmarried sister, and includes the minor children of a deceased son of the workman and, where no parent of the workman is alive, a paternal grandparent.

*Amount of Compensation.*—For the purpose of compensation, accidents are classified under three headings, namely (1) death, (2) permanent total or partial disablement, and (3) temporary total or partial disablement; and persons under 15 years of age are regarded as minors.

(1) In the case of temporary disablement, whether total or partial, compensation for an adult is half-monthly payment during the disablement or during a period of five years, whichever period is shorter, or Rs. 15 or a sum equal to one-fourth of his monthly wages, whichever is less; and for a



minor, a sum equal to one-third or, after he has reached 15 years of age, to one-half of his monthly wages, but not exceeding Rs. 15.

(2) In the case of permanent total disablement, compensation for an adult is a sum equal to 42 months' wages, or Rs. 3,500, whichever is less, and, for a minor, a sum equal to 84 months' wages or Rs. 3,500, whichever is less. Compensation for permanent partial disablement is payable according to the percentage of loss of earning capacity.

(3) In the case of death of an adult, his dependants are to receive a sum equal to 30 months' wages or Rs. 2,500, whichever is less, and in the case of the death of a minor compensation is fixed at Rs. 200.

The Mysore Workmen's Compensation Regulation, 1928, had provisions almost identical with those of the Indore Workmen's Compensation Act of 1935 until its amendment in 1936. By this amendment important changes have been made in the provisions of the Mysore Workmen's Compensation Regulation such as : (1) the extension of the scope of the Act to include new industries and occupations ; (2) the reduction of the waiting period from 10 to 7 days ; (3) the inclusion of widowed sisters and widowed daughters among the dependants of the deceased workman ; and (4) an increase in the scale of compensation.

The most important changes have been made in the scale of benefit, which is determined by the

rate of wages as defined under 17 categories, ranging from Rs. 10 or less a month or Rs. 200 or more a month. The most important changes are as follows: (1) the compensation for a temporary disablement is payable half-monthly, (a) at one-half of the monthly wages, subject to the maximum of Rs. 30 a month to a minor, and (b) at a rate varying from full wages in the lowest wage class to a maximum of Rs. 30 in the other classes to an adult; (2) compensation for permanent total disablement is Rs. 1,200 for a minor and varies from Rs. 700 to Rs. 5,600 according to the rate of wages, for an adult; (3) compensation for the death of an adult varies from Rs. 500 to Rs. 4,000 according to the variation of the wages rate. The other rates are the same as in the case of the first Act or of the Indore Act, discussed above.<sup>1</sup>

*Administration.*—The administration of the law is entrusted to the commissioner who is specially appointed for the purposes of the Act. If any question arises in the proceedings under the Act as to the liability of any person to pay compensation or as to the amount or duration of compensation, the question shall, in default of agreement, be settled by the commissioner. Among other functions of the commissioner the most important are the revision of periodical payments and the apportionment of compensation to the dependants of a deceased person in the case of fatal accidents.

<sup>1</sup> The Mysore Workmen's Compensation Regulation III of 1936.

As to the enforcement of the law, statistical data are available only in the case of Mysore. In 1934-45 the number of claims under the Mysore Workmen's Compensation Regulation of 1928 was 209, of which 197—including 30 fatal cases—were settled and 12 were still pending at the end of the year.

### *Maternity Benefit Measures*

Legislation for maternity benefit has also been making progress in Indian States. A maternity benefit act has been passed by Baroda applicable to women employed in perennial factories.<sup>1</sup> Indore passed the Indore Maternity Benefit Act (VIII) on 7 September, 1936 and brought into operation on 21 October, 1936,<sup>2</sup> and Mysore passed the Mysore Maternity Benefit Regulation (III) in February, 1937 and brought it into operation on 1 April, 1937.<sup>3</sup> The administration of the law is entrusted to the inspectors of factories in both the States.

The chief provisions of the Indore and Mysore Maternity Benefit Acts are :—

*Title to Benefit.*—Every woman employed in a factory is entitled to maternity benefit and no

<sup>1</sup> Cf. *Annual Report of the Department of Commerce, Industry and Labour, Baroda State, for 1934-35.*

<sup>2</sup> The Indore Maternity Benefit Act No. VIII of 1936, received the assent of His Highness the Maharajah Holkar on 7 September, 1936.

<sup>3</sup> The Mysore Maternity Benefit Regulation (No. III) of 1937.

employer shall knowingly employ, and no woman shall work, in a factory during four weeks immediately following the day of her confinement, but she must be in the service of her employer from whom she claims her benefit at least eleven months in Indore, and nine months in Mysore, immediately preceding the day on which she gives notice of her coming confinement, and she must not take any other employment during the period for which she is granted maternity benefit. The woman entitled to maternity benefit cannot be legally dismissed during the period of her benefit because of her absence from work, and the Mysore Maternity Benefit Regulation provides that if she is dismissed within three months of her coming confinement without sufficient cause she is still entitled to the benefit from her employer.

*Period of Benefit.*—The maximum period of benefit is eight weeks in both the States, that is, four weeks up to and including the day of her confinement and four weeks immediately following. In the case of her death during the benefit period, the maternity benefit shall be paid up to and including the day of her death.

*Amount of Benefit.*—In the State of Indore, the rate of benefit is 6 annas a day in the city of Indore and elsewhere at the rate of either average daily wage calculated on the total wages earned during a period of three months immediately preceding the day on which she gives notice of her coming

confinement, or at the rate of 6 annas, whichever is less, for the actual days of her absence for the period immediately preceding, and for four weeks immediately following her confinement. In the State of Mysore the benefit is either at the rate of average daily wage calculated on the same principle and for the same period as the above, or at the rate of 8 annas a day, whichever is less.

*Method of Payment.*—The method of payment is practically the same in both the States. Maternity benefit may be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any of the following three ways, namely :—(1) payment for four weeks on the production of a medical certificate of the expectancy of her confinement within a month, and for the remaining four weeks on the production of the birth certificate of her child ; (2) payment for the period up to and including the day of her confinement on production of the birth certificate of her child, and for the remaining four weeks after ; and (3) payment for the entire period on production of the birth certificate of her child within six weeks of her confinement. In the case of the death of the woman during the period for which she is entitled to maternity benefit, the benefit shall be paid to the person taking care of her child, or to the legal representative in the case of the death also of the child.

The State of Cochin introduced into the legislature a Maternity Benefit Bill on 3 December,

1937 and referred it to a select committee on the same day. It is still under consideration by the Legislature. The Bill restricts its application to non-seasonal factories only, fixes the rate of benefit at 3 annas a day and the maximum period at seven weeks, that is, three weeks up to and including the day of her confinement and four weeks immediately following.<sup>1</sup> The Government of Hyderabad has also circulated to mill owners for their opinion a draft Bill relating to maternity benefit on the lines of the Bombay Act 1929.<sup>2</sup>

## 5. TRADE UNION LEGISLATION

As in the case of British India, industrial workers in Indian States are also gradually becoming class-conscious and realising the importance of trade union legislation. Although such a measure has long been under consideration by Mysore,<sup>3</sup> and a non-official Trade Unions Bill was also introduced into the Legislature of Indore in November, 1936,<sup>4</sup> the only States which have taken active steps in this direction are Cochin, Travancore and Baroda.

With a view to safeguarding the right of trade combinations, the Government of Cochin passed

<sup>1</sup> The Cochin Maternity Benefit Bill, 1937.

<sup>2</sup> *Indian Labour Journal*, 26 September, 1937.

<sup>3</sup> *Labour Gazette*, August, 1936, p. 443 : June, 1937, p. 763

<sup>4</sup> *Statesman*, 11 and 12 November, 1936

a Trade Unions Regulation on 27 August, 1936,<sup>1</sup> the Government of Travancore passed the Travancore Trade Unions Regulation on 18 March, 1937,<sup>2</sup> and the Government of Baroda passed the Trade Unions Act on 4 July, 1938.<sup>3</sup> All the regulations have been based upon the Indian Trade Unions Act of 1926 and define a trade union to be "any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions." But while the law makes the registration of a trade union voluntary in Cochin, it makes it compulsory in Travancore.

The main provisions of these Regulations are as follows:—(1) each Government is required to appoint a person to be the registrar of trade unions in the State; (2) any trade union of seven or more members stating its objects and purposes, guaranteeing the safety of its funds and complying with the requirements in regard to the drafting of its

<sup>1</sup> The Cochin Trade Unions Regulation, 1936; received the assent of His Highness the Maharajah on 27 August, 1936.

<sup>2</sup> The Travancore Trade Union Regulation (Regulation VIII of 1112) passed by His Highness the Maharajah of Travancore on 18 March, 1937.

<sup>3</sup> The Baroda Trade Unions Act (No. XXVII) passed on 4 July, and published on 7 July, 1938.

rules is eligible for registration; (3) as in the case of the Government of India, the Governments of Travancore and Cochin provide also that the general funds of a trade union may be spent only for specified and prescribed purposes of its activities, but a separate fund of voluntary contribution may also be maintained for the promotion of the civil and political activities of its members or for the furtherance of any other specified objects; Baroda makes no provision for the regulation of general or political funds; (4) the accounts of a registered trade union must be annually audited and an annual return should be made to the registrar; (5) the majority of the officers (not less than two-thirds in Baroda and three-fourths in Travancore) must be employed in an industry with which the union is affiliated; and (6) the officers and members of a trade union are given protection against any civil or criminal proceedings in respect of any legitimate activities for the furtherance of trade unionism and trade dispute.

## 6. TRADE DISPUTE LEGISLATION

As in the case of British India, trade dispute has also become a serious problem in Indian States. Some of the States have undertaken measures for the regulation and settlement of industrial disputes. Indore passed the Indore Trade Disputes Act (III) on 18 February, 1933, and brought it into



operation on 1 March, 1933.<sup>1</sup> Cochin passed the Cochin Trade Disputes Act (LXVI) on 24 July, 1937.<sup>2</sup> Baroda had a Labour Conciliation Board, but as it had no legal authority behind it, a motion was made in the Legislature on 18 July, 1934, to pass a law. The Baroda Trade Dispute Act was finally passed on 4 July, 1938.<sup>3</sup> A Trade Disputes Bill based on the Indian Trade Disputes Act 1929, for the investigation and settlement of industrial disputes, is also under consideration by Travancore.<sup>4</sup>

All these States make provisions for the settlement of trade disputes through special bodies, which are to be appointed by the Government in the case of an existing or apprehended dispute. The Indore Trade Disputes Act of 1933 provides for the appointment of (1) a Conciliation Officer, either the member of industry and commerce or any other person, official or non-official, and (2) if necessary, also a Board of Arbitration consisting of a chairman, generally a high court judge, and six members, two each representing the public, the workers and the employer. The Cochin Trade Disputes Act of 1937, which is based on the Indian

<sup>1</sup> The Indore Trade Dispute Act No. III of 1933, received the assent of his Highness the Maharajah Holkar on 18 February, 1933.

<sup>2</sup> The Cochin Trade Disputes Act, No. LXVI of 1937.

<sup>3</sup> *Statesman*, 18 July, 1934. The Baroda Trade Dispute Act (No. XXVI) passed on 4 July and published 7 July, 1938.

<sup>4</sup> The Travancore Trade Disputes Bill, 15 July, 1935.

Trade Disputes Act of 1929 as amended in 1932, provide for the appointment, on the application of the parties to a dispute, either separately or conjointly, of (1) a Court of Enquiry consisting of an independent chairman and other independent members, and also (2) a Board of Conciliation consisting of an independent chairman and two or more members, either independent or representatives in equal number of the parties to the the dispute. The Baroda Trade Dispute Act of 1934, which is based on the Indian Trade Disputes Act of 1929, provides for the appointment of a similar court and for a permanent Board of Conciliation.

The object of these bodies is to find the facts and circumstances of the dispute and try to bring out a settlement and report, in the case of failure, to the Government or the appointing authorities, giving all the details of the case, and the board of arbitration or conciliation should also make the recommendation for the settlement. In the case of failure to bring about conciliation on the part of both bodies, the Government of Indore reserves the right to give its final decision for settlement, while those of Cochin and Baroda leave it to the pressure of public opinion after the facts have been investigated and known.

All the States prohibit strikes and lock-outs in the public utility services, without giving, within one month (one month and a half in Baroda) before such strike or lock-out, not less than fourteen days'

(one month in Baroda) previous notice in writing, and also make any strike or lock-out illegal which has any object other than the furtherance of a dispute within the trade or industry in which the strikers or the employers are engaged, or which is designed or calculated to inflict severe and prolonged hardship upon the community and thereby compel the Government to take, or abstain from taking, any particular course of action.

It shall be illegal to commence or continue to apply any sums of money, or to picket, in the furtherance or support of any such illegal strikes or lock-outs, and also to hold any public meeting in order to call in question any order of the Government passed, or final decisions given, in the settlement of any disputes on the report of the conciliation officer or the board of arbitration. No person refusing to take part in any illegal dispute shall be deprived of any right or privilege such as the membership of any trade union or society or benefit to which he, or his legal representative, would otherwise be entitled.

The State of Indore provides that the parties to the dispute shall be entitled to be represented before the conciliation officer or board of arbitration by their legal representatives, and no court shall take any cognisance of any offence against the provisions of the illegal strikes or lock-outs and meetings save on the complaint under the authority of the Government.

## APPENDIX

### THE LATEST LABOUR MEASURES

The measures undertaken by the Indian States in recent months concern both labour in specific industries and labour in general. They relate to the amendment and extension of the Factories Act, and prohibition of the employment of women underground in mines as well as abolition of servile labour, protection of wages, social insurance, trade unions and trade disputes.

#### SPECIFIC LABOUR LEGISLATION

The amendment of the Factories Act has been undertaken by Travancore and Baroda. The Travancore Factories (Amendment) Regulation, 1938, the Bill for which was introduced in the legislature in July, 1935, was finally passed in 1938.<sup>1</sup> The Baroda Factories Act of 1914, which was amended in 1930, was re-amended in 1940.<sup>2</sup> The object of these amendments is to bring these Acts in conformity with the recent development of factory legislation in British India with special reference to the classification of factories into seasonal and permanent categories, the increase in

<sup>1</sup> *The Travancore Factories Bill*, 15th July, 1935; *Hindu*, 22nd August, 1940

<sup>2</sup> *Baroda Factories Act (XXI)*, 1940, 11th April, 1942.

the minimum age of children, the creation of a new young persons class as adolescents between the ages of 15 and 17, the reduction of the hours of work and the provision for spreadover, etc.

The Hyderabad Factories Act was extended on the 11th October, 1938, to include all match factories without using power but employing 20 or more persons at a time on any day of the year, owing mostly to the fact that they employed more children than adults, and worked for long hours and without regular weekly holidays.<sup>1</sup>

Of the other specific labour measures, mention may be made only of that of the State of Jodhpur, which promulgated rules under the Jodhpur Mines Act, prohibiting women from working under ground in the mines of the State.<sup>2</sup>

### GENERAL LABOUR LEGISLATION

Measures concerning labour in general have been undertaken by Kashmir, Indore, Baroda, and Mysore and they relate to following subjects :—

*Abolition of servile labour* was undertaken by the State of Kashmir, which passed a Bill in March, 1939, prohibiting the requisition of forced labour by Government servants. The Act repealed the Kar-i-Sarkar Rules, which empowered the State officials to requisition labour for administrative

<sup>1</sup> *Times of India*, 15th October, 1938.

<sup>2</sup> *National Call*, 5th July, 1938.

those of the Indian Trade Unions Act, 1926, and are practically the same as those of Cochin, Travancore and Baroda described above.<sup>1</sup>

*Trade Disputes* :—Reference has already been made to the Travancore Trade Disputes Bill, 1936, which was under consideration by the Travancore Government. The Bill was passed on the 22nd September, 1938, and brought into force on the 25th October, 1938. The provisions are practically the same as those of Indore, Cochin and Baroda discussed above. A Trade Disputes Regulation has also been adopted by the State of Bhavnagar in 1930 for the settlement of industrial disputes. The Regulation provides for the appointment of a special conciliation officer by the State to whom all trade disputes will be referred for amicable settlement.<sup>2</sup>

<sup>1</sup> *Indore Trade Unions Act* (V), 1937.

<sup>2</sup> *Hindu*, 22nd August, 1939

## CONCLUSION





## CONCLUSION <sup>1</sup>

In the foregoing pages, it has been shown that labour legislation has made considerable progress in India within the past two generations. Legislative measures have been undertaken for the regulation of labour conditions in such specific industries as plantations, factories, mines and transport, as well as for the welfare of workers in general, with special reference to the abolition of servile labour, regulation of child labour, improvement of housing and health, protection of wages including relief from indebtedness, payment of social insurance, development of trade unionism and settlement of industrial conflict.

### 1. LEGISLATIVE ACHIEVEMENTS

A very significant achievement of labour legislation in India is the enactment of measures for the abolition of servitude, both customary and statutory. Like many other countries, India had also slavery and serfdom and, although slavery was abolished in 1843, serfdom had existed much longer and, to a certain extent, still exists in various forms, such as bond service, pledging of labour

<sup>1</sup> For fuller discussion, the reader is referred to *Principles Problems of Indian Labour Legislation*, pp. 214-58.

tions have been thought necessary for the c . . . .  
has no access to the other treatise.

and forced labour. The pledging of the labour of children under 15 years of age has, however, been abolished; and several measures have also been undertaken and others are contemplated by both Central and Provincial Governments for the abolition of other forms of customary servitude.

Another class of servile labour was created by various acts and codes between 1804 and 1926, some of which related to plantation labour. The most important system of statutory servitude in India developed in connection with the recruitment and forwarding of labour for Assam tea gardens which, being located in isolated and often unhealthy hill districts, have depended upon imported labour from the very beginning. The recruitment of labour by professional contractors led to great abuses, to control which the Government passed a series of legislative measures guaranteeing the employers of the services of their labourers under penal sanction. Madras and Coorg also resorted to penal contract for the employment of labour on plantations. All these measures have been recently abolished; and labour under penal sanction came to an end in 1931.

The most important legislative achievement is, however, the establishment of the principle of minimum age and physical standard for the admission of children to employment in such industries and occupations as factories, mines, railway transport, on board ship under certain

conditions, docks, loading and unloading in ports, certain workshops and even in shops in certain provinces. The hours of labour for children in factories have been reduced to about half the time fixed for men, and their employment at night and in dangerous occupations has been prohibited. A new class of protected young persons or adolescents has been created between the ages of 15 and 17 years, who must be duly certified by competent authorities for employment as adult workers in factories or for underground work in mines. Moreover, young persons below 18 are prohibited from employment as motor vehicle drivers and also as trimmers and stokers; and young workers on board ship other than trimmers and stokers must undergo medical examination for physical fitness before employment.

Like that of children, the employment of women has also been brought under legislative control in factories and mines and in certain respects even on plantations. Their hours of work have been gradually reduced and their employment at night and in dangerous occupations in factories as well as in underground work in mines has been prohibited. Provisions have been made for the establishment by provincial Governments of creches in factories, for prohibiting the admission of children under the age of 6 to any part of a factory in which manufacturing process is carried on and also for requiring a factory employing more than 50 women to

reserve a suitable room for the use of their children. The Government of Bombay has already given effect to this provision. Some of the provincial Governments have also enacted legislation for the payment of maternity benefit, as will be noted later on.

As regards working conditions, it has been seen that the hours of work have been gradually reduced in factories and mines, and limited on railways, and to a certain extent on board ship, in motor vehicle transport and even in shops and commercial establishments in some provinces. Moreover, rest intervals, weekly holidays, spreadover and restriction on overtime have also been provided for. Provisions for health and safety are generally satisfactory in new and large undertakings, though much yet remains to be done in seasonal and non-regulated factories. Moreover, factory legislation has also made provision for cubic space, light and ventilation, purity of air and supply of shelter during rest period.

A vital question with workers is the protection of wages, which has been undertaken by the payment of wages legislation regulating the time and mode of payment and the system of fines and deductions from the wages earned. Relief from indebtedness has also been secured by both the Central and Provincial Governments, regulating attachment of wages and imprisonment for debt, forbidding intimidation for collecting debts and

facilitating the liquidation of debts. The Government of India has also asked for the opinions of the provincial Governments as to the advisability of introducing the system of holidays with pay, and this question is also under consideration in some provinces. Moreover, Bills have been introduced in some provincial legislatures for the adoption of the minimum wage system.

The scope of social insurance is still limited in India, but the workmen's compensation legislation has been well established in most of the organised and some semi-organised industries, bringing within its scope about 6 million workers in British India. Maternity benefit is a provincial subject, but it has already been established in several major and minor provinces and is under consideration by some others. Sickness insurance has also received some consideration, though the feasibility of enacting any measure to that effect has not yet been found. Bills for provident fund and unemployment insurance have also been introduced in provincial legislatures.

Industrial welfare is a question of great importance for workers, especially in India, where the majority of them are extremely poor and social welfare by the public and the workers themselves has scarcely begun. The only measure undertaken by the Government of India is the Land Acquisition Act, for granting facilities to employers to develop industrial housing ; and the

general, irrespective of the industry in which they are employed, have also made some progress in Indian States. Legislative measures have been undertaken by some of the States for the abolition of servile labour, regulation of child labour, improvement of housing conditions, protection of wages including relief from indebtedness, payment of workmen's compensation and maternity benefit, development of trade unionism and conciliation of industrial conflict, although these measures have been adopted only by a few States.

## 2. LEGISLATIVE PROSPECTS

Great as these achievements are, they constitute only the beginnings of one of the most important social institutions in modern India. First, the existing legislation scarcely covers more than one-tenth of the labour population, and although a considerable number of wage-earners will long remain attached to agriculture, in which the scope of the labour legislation is much narrower than in industry, Indian labour legislation will still have to cover the bulk of the wage-earners and, what is more important, to look after the increasing needs of their social and economic welfare. Secondly, India is only on the threshold of industrialisation. Rapid progress in science and technology and growing industrialisation and rationalisation throughout the world, as well as urgent need for

modern industry in the country itself, for which there are immense potentialities, are bound to lead to the growth of organised industry which will draw an increasingly large number of peasants, artisans and middle classes into the rank and file of industrial workers. Finally, national awakening among the people, increasing enfranchisement of the masses, and the growing demand by workers for greater amenities of life, will also make increasing demand for more progressive social legislation.

The progress of Indian labour legislation is, however, beset with several difficulties, social, economic and political. First, age-long inertia, rigidity of custom and illiteracy of the masses, are great hindrances to the growth of a rational social policy. Secondly, preponderance of agriculture, backwardness of industry, limitation of social capital and scarcity of skilled labour, are no mean causes of the absence of a bold industrial policy. Thirdly, the lack of class-consciousness and class solidarity among the workers, and their inability to take concerted action for their own welfare, are partly responsible for tardiness in the development of a labour policy. Finally, the Government of India Act of 1935, granting autonomy to the provinces in several aspects of labour legislation and providing federation of the Provinces with the States, has also added to the complexity of the Constitution which forms the background of labour legislation.

mines of Mysore and Hyderabad, and children even between 7 and 12 years of age are allowed to work as domestic servants in Hyderabad.

In the second place, from the point of view of India as a whole, labour measures in both the States and the Provinces lack uniformity in principle and co-ordination in development. For example, some of the Provinces and the States have enacted maternity benefit and small factories Acts, while others have not taken any steps in that direction. Some legislative measures have even different standards in different States. A child may mean, for instance, any person under the age of 14 or 15 years. But what is more to the point is the fact that, except in Mysore, labour measures in Indian States lag behind those in British India. "A number of States," says the Royal Commission on Labour, "have copied various Acts of the Indian Legislature; but, except in rare cases, their labour laws are substantially behind those of British India."<sup>1</sup> Considering the backwardness of their industries, Indian States may not realise the same standard of labour legislation as that in British India, but since some of their industries offer effectual competition to those of British India, and even tend to draw into their boundaries some of the industrial enterprises from British India—e.g., cotton ginning and pressing factories in the Punjab—they create industrial rivalry and stand in the way of

<sup>1</sup> *The Report of the Royal Commission on Labour*, 1931, p. 472.



normal development of labour legislation in British India. "So long as," continues the Royal Commission, "there exist side by side areas in which legislation is comparatively backward, they will be a handicap to the progress of the rest of India."<sup>1</sup> Since 1931, there has, however, been gradual improvement in labour legislation in most of the important States.

In the third place, in spite of the preponderance of agriculture, India is a country of considerable industrial importance, inasmuch as a large number, if not proportion, of her population is engaged in modern industry, thus making her one of the countries of industrial importance and entitling her to a place in the Governing Body of the International Labour Organisation. India has ratified 14 draft Conventions, and although, owing to her industrial backwardness, she has not been able to ratify more, she has given effect to the principles of a still larger number of draft Conventions into her national labour legislation.

A great difficulty in the way of ratification by India of International Labour Conventions lies in fact in the anomalous position of the Indian States. In spite of the fact that they compare favourably in the aggregate, and some of them even individually with some British Provinces as well as other countries in both area and population, and have

<sup>1</sup> *The Report of the Royal Commission on Labour, 1931,*

inspire backward Provinces to take progressive measures, it will nevertheless tend to retard the progress of labour legislation in the whole country. It was in partial realisation of this difficulty that the Royal Commission on Labour recommended the establishment of an Industrial Council under the new Constitution, consisting of the representatives of workers, employers and Governments, for the development of a common labour policy for the whole of India.

A second difficulty in the way of prompt ratification by India of International Conventions lies in the unsuitability of the provisions of some Conventions for application to India at the present stage of her industrial development. India is still essentially an agricultural country and two-thirds of her population are engaged in agriculture, modern industry has scarcely made sufficient progress as indicated by the fact that of her total gainfully occupied population only 16 per cent are engaged in industry transport and trade as compared with 41 per cent in Italy, 52 per cent, in France and 74 per cent in England and Wales.<sup>1</sup> There is, however, reason to believe that, with the growing industrialisation of the country, for which there is a strong movement at present, and with the growing

<sup>1</sup> Adapted from: *Annuaire Statistique, Paris 1936, Divers Paris*, pp. 43-45 *Statistical Abstract for British India, 1935*, and Tables Nos. 17 and 18.

tendency on the part of the International Labour Conference to adopt draft Conventions more suitable to the industrially undeveloped countries, India will find it more convenient to ratify International Conventions.

Labour Legislation is, however, one of the most dynamic and vital institutions in modern society, and has a much larger scope and deeper significance in national life than what could be effected by any outside organisation or external force. The real progress of national labour legislation must come from within, and will depend upon several factors, of which the most important are the following: First, the growing class-solidarity among workers, and their ability to take concerted action for improving their working and living conditions and for increasing their power of collective bargaining; secondly, the growth of enlightened self-interest among employers as to the importance of an efficient and contented class of workers who, with higher purchasing power, can secure the steady domestic market and assure the continued development of national industry in face of the increasing competition of highly industrialised countries; thirdly, the realisation by the public in general of the significance of moral and material amelioration of workers in the welfare of society as a whole. Finally, progressive measures on the part of the Government for the improvement of social, political and economic condition-  
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the working classes, which form an increasing number of population of a modern industrial nation and on which largely depend the independence, prosperity and progress of the whole country.

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5. Production in India (Calcutta, 1924).
6. Plantation Labour in India (Calcutta, 1931).
7. The Industrial Efficiency of India (P. S. King & Son, Ltd., London, 1930).
8. Woman Labour in India.  
(A reprint of two articles in *International Labour Review*, October and November, 1931.)
9. Child Labour in India.  
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# WORKS BY Dr. R. K. DAS

(A few extracts from Opinions and Reviews)

## I. FACTORY LABOUR IN INDIA

### 1. *The Mysore Economic Journal*

“ This is about the first book of an independent student of Economics on Factory Labour in India. It is both comprehensive and critical. Mr. Das has done his work with scholarly care.”

### 2. *The Swarajya*

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## II. FACTORY LEGISLATION IN INDIA

### 1. DR. JOHN R. COMMONS (Professor of Economics, University of Wisconsin) writes in his introduction to the book)—

“ This unusually extensive preparation for the study of Indian Factory Legislation, has given to the book an unusual value, not only as a study of a single country, but especially by way of the comparative legislation and actual factory practice which he has had always before him...To the understanding of these economic, political and legislative problems this book is a valuable contribution.”

2. M. GADSBY, U. S. Bureau of Labour Statistics, writes—

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### III. HINDUSTANI WORKERS ON THE PACIFIC COAST

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#### 3. *The Indian Journal of Economics*

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## 1. *The Times of India*

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## 3. *The Calcutta Review* (organ of the University of Calcutta)

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## 4. *The Indian Affairs* (London)

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## 5. *The Indian Journal of Economics*

"Dr. Rajani Kanta Das is a recognised student of the Indian Labour Problems and this study of plantation labour by him is worthy of study."

## 6. *The Journal of the Royal Statistical Society*

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“Compressed within a small volume of a little more than 200 pages, the author necessarily takes a bird’s-eye view of the numerous aspects of the vast problems of the India’s industrial inefficiency and of its remedy. Nevertheless, he has put before us in a very readable form the salient features of the problem and its staggering magnitude, and has also suggested a sound line of action.”

### 3. *The Times Literary Supplement*

“Dr. Das’s survey of Indian industrial conditions is complete and searching. Many of his suggested remedies are shrewd and may be commended to those, his countrymen and others, for

]whom India's political difficulties and aspirations shadow her industrial needs."

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trial revolution in the making one cannot do better than read this material which Dr. Das has presented with scholarly and sympathetic insight.”

## IX. CHILD LABOUR IN INDIA

1. *The Times of India* writes in an Editorial—

“Dr. R. K. Das is a keen observer of labour conditions in India, and a series of articles from his pen has already been published in the *International Labour Review*, the official organ of the International Labour Office. His latest contribution to the *Review*, recently printed in book form, is an exceedingly human study of child labour in India.”

2. *The People*

“Dr. R. K. Das is well-known as a careful student of Indian labour problems, and his latest monograph is a useful addition to the works he already has to his credit. His usual method is a careful survey of the conditions as they exist, offering the minimum of comment and he adheres to that in his latest work... Child labour is one of the most important problems for the Indian reformer, and in this booklet Dr. Das presents the facts about it with his usual lucidity, care, precision and brevity.”

## X. INDUSTRIAL LABOUR IN INDIA

(Author's report published by the International Labour Office, 1938)

1. *The Great Britain and the East* (London, 13th April, 1939)

PROFESSOR RUSHBROOK WILLIAMS writes—

“ Among the illuminating publications issued within the last few months by the International Labour Office, high place is taken by the volume entitled “Industrial Labour in India.” With the many aspects of India’s labour problem discussed in this volume in its ten admirable chapters, it is impossible to deal adequately in a short space. But the book is indispensable to those who realise that India is now among the eight greatest industrial nations of the world ”

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3 *The Times of India* (31st May, 1939) writes editorially—

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field of Indian labour problems and gives a concise conspectus of the position to-day."

#### 4. *The Hindustan Review* (July, 1939)

DR. W. S. WADIA, D.Sc. (Lond.), writes in a special article—

"For some years the International Labour Office has given active attention to research on Indian industrial labour, and among other results it has published, from time to time, informative studies relating to woman and child labour and also labour legislation, from the pen of Dr. Rajani Kanta Das—who has long since made his mark as an expert and acknowledged authority on the subject ... Dr. Das's *Industrial Labour in India* is thus a valuable contribution to the appreciation of the industrial and labour problems of India. It is usefully supplemented by his *Principles and Problems of Indian Labour Legislation*, which presents not only a lucid conspectus of the subject it deals with, but which is also sound and comprehensive. The two books together constitute a fairly exhaustive—and withal highly instructive—survey of the problems of industrial labour, and of the principles of labour legislation in India. They deserve assiduous attention alike from Government, captains of industry, labour leaders and all others interested in the welfare of the industrial labour classes of this country."

## XI. PRINCIPLES AND PROBLEMS OF INDIAN LABOUR LEGISLATION

*Calcutta University Special Readership Lectures*  
(Published by the Calcutta University Press, 1938)

### 1. *Science and Culture* (August, 1939)

“In the third chapter, ‘Fundamental Principles,’ an attempt is made to evaluate labour legislation from the point of view of social justice, social welfare, national economy and international solidarity. This and the fifth chapter on social significance of Labour Legislation would certainly add to the author’s reputation as a scholar with sound judgment and originality of approach. Every item of the above (Congress) programme presents sociological and economic problems on which Dr. Das is both illuminating and constructive. Dr. Das’s studies come at an opportune moment to arouse public conscience and guide public policy in matters concerning labour at a critical stage of her industrial development.”

### 2 *The Mysore Economic Journal* (August, 1939)

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will apply to the whole of Federated India—Provinces and the States—a handy work of this kind is of great value. Mr. Das is a writer of a specialised sort from the abundance of first-hand knowledge he possesses of the topics he writes of. His accuracy of statement and his well-founded conclusions have always been recognised as his chief merit as a writer on social statistics. Even the Royal Commission on Labour owed, it is understood, not a little to his published volumes. It is just as well we note these facts here to indicate the value to be attached to the present volume... Mr. Das's volume is not only comprehensive but also eminently suggestive in almost every part of it."

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